

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.660 of 2025
In
Civil Writ Jurisdiction Case No.15771 of 2021

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Poonam Kumari W/o- Ashok Kumar Resident of Mohalla- Ashiyana Nagar,
P.S.- Rajeev Nagar, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director (Primary Education), Bihar, Patna.
3. The District Education Officer, Nalanda.
4. The District Programme Officer (Establishment), Nalanda.
5. Sujeet Kumar Raut, S/o not known to the petitioner the then D.P.O., (Establishment), Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms. Shashi Priya Pathak, Advocate
Mr. Ambrish Kumar Jha, Advocate
For the State : Mr. Anjani Kumar AAG-4
Mr. Alok Kumar Rahi, AC to AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-01-2026

The Letters Patent Appeal has been filed by the appellant-Poonam Kumari challenging the order dated 05.05.2025 passed by the learned Single Judge in CWJC No. 15771 of 2021.

2. Respondent no. 6-Shweta Prasad filed the aforesaid writ petition with following relief:-

“(1) For issuance of writ(s) / direction(s) in the name of Respondents to make payment of salary to



the petitioner who is working on the post of Panchayat Teacher in School, Jiyachak Navsrijit Primary under Gram Panchayat Raj Barandi block- Rahui, Distt-Nalanda from 03.07.2012 in view of appointment letter issued on 27.06.2012 in terms of order issued through memo no-235 dated 25.07.2011 by the Learned District Teacher Appellate Authority, Nalanda in Appeal no-57(A)/2011.

(II) For issuance order/orders, of writ/writs, direction/directions which may deem fit and proper under the facts of the case.”

3. When the notice was issued in the matter, the present appellant filed the counter affidavit on 29.10.2021, and the following statements were made therein:-

“6. That facts of the case under dispute in a narrow is campus that the petitioner filed application for her employment in the year 2008 before the Gram panchayat Barandi under Rahui block but the petitioner was not selected and appointed by the panchayat employment unit, Barandi.

7. That it is not dispute that 2nd phase of Block/panchayat teachers employment was concluded in the month of December, with 2010 specific direction that no employment shall be made after 31.12.2010 and all vacancies shall be carried forward for the third phase of employment 2012.

8. That one employed panchayat teacher tender his resignation due to appointment on regular teacher in 34540 category, Thereafter, the petitioner and two other candidates moved before the District teacher Employment Appellate Authority, Nalanda vide Appeal No. 57 (A) of 2011.

9. That the District Appellate Authority, Siwan without considering the departmental guideline and after completion of process of selection of Block/Panchayat Teacher of 2nd phase, illegally allowed the appeal with a direction to concerned employment unit to appoint the petitioner as Panchayat Teacher against the vacancy of 2008. (Annexure-3 of the writ petition) vide order dated 25.7.2011



(Annexure-2 of the writ petition).

10. That in compliance of the order passed by District Appellate Authority, the Panchayat Employment unit Barandi issued employment letter vide letter no. 06 dated 27.6.2012 and posted in Newly Primary School Barandi petition). (Annexure-3 of the writ petition).

11. That it is relevant to state that at present scenario, the employment has been made under Bihar panchayat Elementary Employment Rule -2012 and the process and criteria of employment of panchayat/Block Teacher have been changed. Therefore, employment of petitioner could not be made against non existing vacancies. The said issue has been decided by this Hon'ble court on 7.7.2015 in C.W.J.C.NO. 6015 of 2015 (Md. Akil Vs. State of Bihar and ors) in which clearly hold that-

"This application is dismissed on the ground that no appointment can belated stage on made be the at post which was advertised and exercise was complied in the year 2008. In addition to that rules have been changed and the qualification and eligibility criteria for appointment has been changed any appointment now will be governed by the present rules in the play..... "

12. That however, in view of issuance of letter of appointment by the Employment the unit, petitioner discharging his duties against vacancy Caused on account of resignation in the year 2012 of one appointed candidate, Therefore any payment made to the petitioner would amount of financial irregularities.

13. That it is relevant to state that order of District Teacher Appellate Authority Gopalganj has no jurisdiction to direct the employment unit to any appoint candidate against the vacancy caused due to resignation of any candidate. The similar matter has already been decided by the Division Bench of this Hon'ble Court in LPA NO. 1398 of 2013 on 17.02.17 with holding that-

"There is a vacancy subsisting



because of resignation of one of the selected candidates now is of no avail because law is well settled in this regard even. by the Apex Court that, any vacancy caused after joining and resignation can not be used for the same to be filled up by any candidate from the panel as the panel life comes to an end after the appointment process is over.”

4. The learned Single Judge while passing the impugned order on 05.05.2025, came to held as follows:-

“3. In view of the above fact, though the grievance of the petitioner has been redressed, but what appears to be alarming to this Court is that the manner in which the District Programme Officer (Establishment), Education Department works, which is reflected from the counter affidavit filed by the predecessor of Mr. Sujit Kumar Raut, namely, Ms. Poonam Kumari, aged about 47 years, wife of Ashok Kumar, Resident of Ashiyana Nagar, P.S. Rajeev Nagar, District Patna. The District Teachers Employment Appellate Authority, Nalanda in Appeal No. 57A/2011 had granted relief to the petitioner, which was required to be challenged or complied, but I find that the informations contained in the counter affidavit duly sworn on 29.10.2021 can only be said to be in breach of the order dated 25.07.2011 passed by the District Appellate Authority. Ms. Poonam Kumari deliberately and willfully did not comply with the order passed by the District Appellate Authority with predetermined mind to deny the petitioner due salary to which she was entitled to.

4. The Additional Chief Secretary, Education Department, Government of Bihar, Patna is directed to take appropriate action against Ms. Poonam Kumari, after giving due opportunity to her, who had misled the Court by filing counter affidavit on behalf of the respondent no.6 when she was holding the post of District Programme Officer (Establishment), Nalanda and file an affidavit giving details of the action taken by him.”

5. Learned counsel for the appellant submits that in



the counter affidavit, the appellant has not made any incorrect statement and the relief that was sought for by the respondent no. 6 has already been provided to her. She further drew attention of this Court to the fact that the matter i.e. writ petition has been finally disposed of on 22.07.2025 and the following order was passed:-

“Heard Mr. Chandra Shekhar Singh, learned counsel appearing on behalf of the petitioner and Ms. Namrata Singh, learned AC to Ex GA 12 for the State.

2. Ms. Namrata Singh, learned counsel appearing on behalf of the State informs that the petitioner has already been paid the entire amount due to her and the State has also taken appropriate steps to take action against the official, who had duly sworn on 29.10.2021 in the counter-affidavit filed on behalf of the respondent.

3. In view of the above information, the present contempt petition is consigned.”

6. Learned counsel appearing on behalf of the appellant submits that the writ petitioner has got the relief sought for and there was no factual error in the statements made in the counter affidavit and therefore, the direction issued by the learned Single Judge in the impugned order to the Additional Chief Secretary, Government of Bihar, Patna to take appropriate action against the appellant on the ground that she had misled the Court by filing counter affidavit is not sustainable in the eye of law.



7. Learned counsel for the State very fairly submits that in the counter affidavit filed by the appellant, no statement has been made which is factually incorrect.

8. In view of such submission, we are of the view that the appellant has not misled the court by filing the counter affidavit, and therefore, the direction given by the learned Single Judge to the Additional Chief Secretary, Education Department, Government of Bihar, Patna to take appropriate action against the appellant is wholly misconceived and the same is therefore, set aside.

9. The present Letters Patent Appeal is hereby allowed.

10. Pending I.A., if any, stands disposed of.

(Sangam Kumar Sahoo, CJ)

(Sudhir Singh, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2026
Transmission Date	NA

