IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.697 of 2025

In

Civil Writ Jurisdiction Case No.3650 of 2020

CNR No. BRHC010703452025

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Md. Mustajab Alam Son of Md. Usman Miya, Resident of Village-Dumaria, P.O.-Parsa, Block Majhaulia, P.S. Majhaulia, District-West Champaran.

... ... Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, West Champaran.
4. The District Education Officer, West Champaran.
5. The District Programme Officer (Establishment), West Champaran.
6. The Block Development Officer, Block- Majhaulia, P.S.Majhaulia,District- West Champaran.
7. The Block Education Officer, Block- Majhaulia, P.S.Majhaulia, District- West Champaran.
8. The Mukhiya, Gram Panchayat Raj, Bahuarwa, Block- Majhaulia, P.S.Majhaulia, District- West Champaran.
9. The Panchayat Secretary, Gram Panchayat Raj- Bahuarwa, Block- Majhaulia, P.S.Majhaulia, District- West Champaran.
10. Zila Lok Shikayat Niwaran Padadhikari, West Champaran at Bettiah.
11. District Appellate Authority, West Champaran at Bettiah.
12. The Chairperson, the State Appellate Authority, Education Department, Bihar, Patna.
13. Shahzad Hussain @ Shahjad Hussain, Son of Chauki Miyan, resident of Village-Bahuarwa, P.S. Majhaulia, District-West Champaran.
14. Abha Sinha, D/o Bharat Prasad, Village and P.O.- Madhopur, Block- Majhaulia, P.S.Majhaulia, District- West Champaran.
15. Manoj Ram, Son of Jang Bahadur Ram, Village and P.o. Mirzapur, Block- Majhaulia, P.S.Majhaulia,District- West Champaran.
16. Md. Sabir Ali, Son of Wasir Ali, Village and P.O.- Lal Saraiya, Block- Majhaulia, P.S.Majhaulia,District- West Champaran.
17. Firoj Alam, Son of Nurjan Miya, Village and P.O.- Jaukatiya, Block- Majhaulia, P.S.Majhaulia, District- West Champaran.
18. Rita Kumari, D/o Dashrath Chaudhary, Village and P.O. Sugauli Bazar, Block- Sugauli, District- East Champaran.
19. Tabbassum Praveen, D/o Md. Akhtar Hussain, Mohalla and P.O. Teen Lalten, Bettiah Block - Bettiah, P.S. Bettiah, District- West Champaran.

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20. Satya Pravriti, Son of Yogendra Prasad Yadav, Mohalla- P.O. Teen Lalten, Bettiah, Block Bettiah, P.S. Bettiah, District- West Champaran.

21. Ajeet Kumar Singh, Son of Awadh Kumar Singh, Village and P.O.- Parsa, Block- Majhaulia, P.S. -Majhaulia, District- West Champaran.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Pramod Kumar, Advocate
For the Respondent/s : Mr. Bindhyachal Rai, A.A.G.-15

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date : 15-10-2026

This *intra-court* appeal has been filed challenging the order dated 27.01.2025 passed by the learned Single Judge in C.W.J.C. No. 3650 of 2020, whereby the learned Single Judge has allowed the writ petition filed by respondent no. 13 herein by stating in paragraphs 5, 6 and 7 as under:-

> *"5. Considering the aforesaid submission, the District Programme Officer (Establishment), West Champaran is directed to call for all the service particulars relating to the petitioner from the District Education Officer, Block Education Officer and also from the office of the Gram Panchayat, Bahuarwa, West Champaran for taking corrective measures on the basis of the documents produced by the District Education Officer before the State Appellate Authority. The order dated 29.08.2019 of the State Appellate Authority is interfered for the reason that it has not considered the case of the petitioner on the basis of the materials which were required for adjudication of the case. The State Appellate Authority is directed to take corrective measures in accordance with the Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006, amended up-to-date*

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expeditiously.

6. The order passed by the State Appellate Authority (Education Department) in Appeal No. 306 of 2019 dated 29.08.2019 is hereby modified to the above extent.

7. With the aforesaid direction/observation, the present writ petition stands disposed of."

2. The appeal has been filed by Md. Mustajab Alam, who was respondent no. 19 before the learned Single Judge. The case of the appellant herein is that the learned Single Judge has decided the writ petition in violation of the principles of natural justice, without giving any opportunity of hearing to the appellant and also without considering the fact that both the District Authority as well as the State Appellate Authority had dismissed the appeal filed by the writ petitioner/respondent no. 13 on the ground of delay, as the same was filed after more than 11 years, of the cause of action.

3. The facts to be noted for the purpose of this judgment are that, pursuant to the first phase of appointment in the year 2006 to the post of Panchayat Teacher, the appellant, the respondent no. 13/writ petitioner and other private respondents applied for the said post in Gram Panchayat-Raj Bahuarwa under different categories. It is stated that, on the basis of the merits and the documents available on record, an appointment letter was issued to the appellant on 24.01.2007.

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The appellant accordingly joined the allotted school. Since then, the appellant has been working continuously to the satisfaction of all concerned. Recently, the appellant became a trained Exclusive Teacher and submitted his joining as a trained Exclusive Teacher in Government Primary School, Chainpur Bahuarwa, Majhaulia, West Champaran.

4. The counsel submitted that respondent no. 13/ writ petitioner is allegedly aggrieved by the selection of the appellant and other private respondents on the ground that he had secured 69.11% marks in the Intermediate examination and yet was not selected for appointment to the post of Panchayat Teacher, whereas the appellant and other private respondents, having Moulvi degrees, were appointed against general posts, which, according to him, is in violation of Rule 6 of the Bihar Panchayat Primary Teachers (Appointment & Service Conditions) Rules, 2006.

5. According to the counsel, respondent no. 13 has alleged that he had represented before the authorities, including the Block Development Officer, District Education Officer and District Magistrate, but no action was taken by the authorities. It was only in the year 2018 that respondent no. 13/writ petitioner filed a complaint before the District Public Grievance Redressal

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Officer, West Champaran, who passed an order dated 31.10.2018 directing him to file a complaint before the District Level Authority. Thereafter, in the year 2018 itself, respondent no. 13/writ petitioner filed Appeal Case No. 37 of 2018 before the District Level Authority, West Champaran. According to the counsel for the appellant, necessary parties were not impleaded as respondents in the said appeal. In any event, the District Level Authority, West Champaran, vide order dated 14.05.2019, dismissed the appeal on the ground of unexplained delay of 11 years. In the appeal preferred therefrom before the State Appellate Authority, Bihar, being Appeal Case No. 306 of 2019, the State Appellate Authority, vide order dated 29.08.2019, also dismissed the appeal at the stage of admission, finding no infirmity therein.

6. It is pursuant thereto that respondent no. 13/writ petitioner filed C.W.J.C. No. 3650 of 2020 challenging the order dated 29.08.2019 passed by the State Appellate Authority in Appeal Case No. 306 of 2019. He submits that the learned Single Judge of this Court, vide the impugned order dated 27.01.2025, modified the order dated 29.08.2019 passed by the State Appellate Authority in Appeal No. 306 of 2019 and directed the District Programme Officer (Establishment), West

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Champaran, to call for all the service particulars from the office of Gram Panchayat, Bahuarwa, for taking corrective measures.

7. He contests the impugned order passed by the learned Single Judge by stating that the appellant was selected and appointed as a Panchayat Teacher in the year 2007. Thereafter, fresh selection processes were also initiated in the subsequent years. He submits that the writ petitioner/respondent no. 13 slept over the matter for the next 11 years from the date of selection and appointment of the appellant and, for the first time, approached the District Level Authority in the year 2018, which was clearly belated. He submits that the learned Single Judge has overlooked the aforesaid important aspects, as concluded by the District Level Authority and the State Appellate Authority, *inasmuch* as the impugned order does not even refer to the conclusions drawn by the said authorities.

8. It is also his submission that the impugned order is in violation of the principles of natural justice, as it was passed without giving an opportunity of hearing to the appellant. He states that no notice was issued in the writ petition and, on this ground alone, the impugned order is liable to be set aside.

9. That apart, it is his submission that the learned Single Judge failed to appreciate that, under the provisions of

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the Bihar Panchayat Primary Teachers (Appointment & Service Conditions) Rules, 2006, the Block Development Officer was authorised and empowered to hear complaints relating to the employment of Panchayat Teachers, but the writ petitioner did not file any complaint before the prescribed authority, i.e., the Block Development Officer, Majhaulia. The counsel also submits that even after amendment of the Rules, 2006 in the year 2008, whereby the District Level Authority was constituted in place of the Block Development Officer, the writ petitioner did not prefer any appeal before the District Level Authority for the next 10 years.

10. He states that the complaint was required to be filed within 30 days from the date of accrual of the cause of action and, therefore, the District Authority as well as the State Appellate Authority rightly dismissed the appeals filed by respondent no. 13/writ petitioner. In any event, it is his submission that the appointment of the appellant, who possessed a Moulvi degree, to the post of general teacher under the Bihar Panchayat Primary Teachers (Appointment & Service Conditions) Rules, 2006 was valid, as the requisite educational qualification for appointment as a Panchayat Primary Teacher prescribed under Rule 8 was Higher Secondary/Intermediate or

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an equivalent degree from a Government-recognised institution.

11. As early as in the year 1977, the degree of Moulvi awarded by the Madarsa Board had been declared equivalent by the State Government vide memo dated 11.03.1977 and letter dated 24.07.2006 clarified that a Moulvi degree shall be treated as equivalent to Intermediate. Therefore, it is his submission that the appellant, having possessed a Moulvi degree, was rightly appointed against the general post.

12. Finally, the controversy regarding the eligibility of Moulvi degree holders for appointment as general teachers has been laid to rest by the decision dated 17.01.2018 passed by this Court in L.P.A. No. 730 of 2015, holding that candidates possessing Moulvi qualifications were eligible for appointment as general teachers under the Employment Rules, 2006.

13. In conclusion, the submission of the learned counsel for the appellant is that the appointment of the appellant as a Panchayat Teacher was justified and the challenge made by respondent no. 13/writ petitioner in the year 2018 was clearly untenable, and the challenge was rightly rejected by the District Level Authority and the State Appellate Authority.

14. He submits that the impugned order passed by the learned Single Judge, without considering the aforesaid

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aspects, is liable to be set aside.

15. On the other hand, learned counsel for respondent no. 13 would justify the order passed by the learned Single Judge. According to him, the District Level Authority was not justified in rejecting the challenge on the ground of delay. He states that after the Selection Committee had appointed the appellant, Md. Mustajab Alam, in violation of Rule 6 of the Bihar Panchayat Primary Teachers (Appointment & Service Conditions) Rules, 2006, the petitioner had represented before the Selection Committee, but no action was taken.

16. He submits that the petitioner approached the Block Development Education Officer at Majhaulia, the District Education Officer at Bettiah, the Collector of West Champaran as well as the Commissioner of Tirhut Division at Muzaffarpur, but all in vain, as no relief was granted to the petitioner. He states that, on 09.10.2018, the petitioner filed a complaint before the District Lok Shikayat Nivaran Padadhikari, West Champaran at Bettiah, alleging the aforesaid irregularity and illegal appointment. After hearing the complaint, an order was passed on 31.10.2018 directing the petitioner to file a complaint before the District Level Authority, West Champaran at Bettiah. It was

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pursuant thereto that respondent no. 13/writ petitioner approached the District Level Authority and the State Appellate Authority, both of which rejected the challenge made by the petitioner against the appointment of the appellant.

17. He highlighted the fact that the complaint made before the Block Development Education Officer, Majhaulia, on 25.12.2006 was not answered. Even the application submitted before the District Education Officer, West Champaran at Bettiah, on 10.06.2008 was not answered. Similar was the position when he filed an application before the Collector of West Champaran on 27.04.2009, which also remained unanswered. He states that respondent no. 13/writ petitioner had been regularly filing complaints before the authorities from the year 2006 to 2017, which fact has been appreciated by the learned Single Judge while issuing the directions reflected in the aforesaid paragraphs.

18. He also submits that, in this background, the learned Single Judge directed the District Programme Officer (Establishment), West Champaran, to call for all the service particulars relating to the petitioner from the District Education Officer, Block Education Officer and also from the office of Gram Panchayat, Bahuarwa, West Champaran, for taking

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corrective measures on the basis of the documents produced by the District Education Officer before the State Appellate Authority. In that sense, there is no illegality in the order passed by the learned Single Judge.

19. The learned A.A.G.-15 appearing for the State would only support the order passed by the learned Single Judge.

20. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the learned Single Judge was justified in setting aside/modifying the order passed by the State Appellate Authority in the manner indicated in the aforesaid paragraphs.

21. The answer to the issue has to be in the negative, *inasmuch* as there is no dispute that the selection in question was held in the year 2006. It is also not disputed that respondent no. 13/writ petitioner was a candidate in the said selection process. It is thus an admitted position that the appellant herein was selected as a Panchayat Teacher, whereas respondent no. 13/writ petitioner was not appointed. Surely, his non-appointment would give a cause of action to respondent no. 13/writ petitioner to approach the competent authority challenging his non-appointment as a Panchayat Teacher.

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22. Though the respondent no. 13/writ petitioner has stated that he approached the Block Development Education Officer, thereafter the District Education Officer, the Collector and then the Commissioner, but no response was forthcoming. Nothing precluded the petitioner from approaching the District Level Authority during the period from 2006 to 2009.

23. By that time, the Rules of 2006 had undergone an amendment in the year 2008, whereby the Block Development Officer was replaced by the District Level Authority as the authority before whom a complaint could be filed. In that sense, the District Level Authority was competent and had jurisdiction to hear and decide appeals relating to the employment of teachers appointed under the Employment Rules of 2006.

24. So, it seems respondent no. 13/writ petitioner did not file any appeal in the year 2008 or for the next 10 years thereafter, but only in the year 2018, which was clearly barred by limitation. In that sense, the District Level Authority was right in dismissing the appeal on the ground of limitation. We find that even the State Appellate Authority upheld the order of the District Level Authority by observing in paragraphs 5 and 6 as under:-

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"5. The matter relates to employment of Panchayat teachers under the Bihar Panchayat Elementary Teacher (Employment and Service Conditions) Rules, 2006 (for short, Employment Rules, 2006). The process of first phase of Panchayat teacher's employment was completed and closed in the year 2007 itself. Thereafter, the second phase of employment of Panchayat teachers was also started in the year 2008 and closed in the year 2010. The Employment Rules, 2006 were replaced by the Employment Rules 2012, under which the procedure, norms and criteria for employments of Panchayat teachers were changed. Further, the remaining vacancies of first and second phases of employment, were carried forward and clubbed with the posts for third phase of employment to be made under Employment Rules, 2012.

Under rule 18 of the Employment Rules, 2006, the Block Development Officer (B.D.O.) was authorized and empowered to hear complaint related to the employment of panchayat teacher. But the appellant did not file any complaint before B.D.O., Majhaulia. Rule 18 of the Employment Rules, 2006 was amended by Bihar Panchayat Elementary Teachers (Employment and Service Conditions) (Amendment) Rules, 2008 (for short, Amendment Rules, 2008), replacing the B.D.O. by a District level Authority having one or more members. appointed by the State Government, having powers and jurisdiction to hear and decide appeals related to employment of teachers employed under Employment Rules, 2008. But the appellant did not file any appeal before the District Authority in the year 2008 and the next 10 years till he filed the appeal in the year 2018. The appellant has claimed to have filed complaints before the District Public Grievance Redressal Cell and other authorities who do not have power and jurisdiction under the Employment Rules, 2006 or Amendment Rules, 2008 or Employment Rules, 2012 to hear any appeal related to employment of Panchayat teachers under these Rules. It is well settled that filing a complaint/appeal before an authority other than the authority prescribed under

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the relevant rules, is as good as filing no complaint/appeal under relevant rules.

The appellant was not selected in the first phase of employment. But, effectively he filed the appeal before the District Authority, West Champaran, in the year 2018, after a lapse of 11 years from the date of completion of the employment process in the year 2007. Hence, his appeal before the District Authority was grossly time barred and fit to be dismissed on that ground alone. He has claimed employment in 2018 on the basis of his application submitted in the year 2006 under Employment Rules, 2006. Further all previous vacancies of first and 2nd phases have been carried forward and clubbed with subsequent vacancies against which the employment was made under Employment Rules, 2012. The Private respondents were employed in the year 2006 and 2007 and have been working as Panchayat Teachers for the last 12 years. It is well settled that an aggrieved person must approach the competent Court/ Authority for redressal of his grievance at the earliest opportunity before parallel rights are created and entrenched due to lapse of time and acquiescence. In the present case, the private respondents have been working for the last 12 years and their employment cannot be cancelled after a lapse of 12 years.

6. Hence, the learned District Authority has rightly dismissed the appeal filed by the appellant on the ground of limitation, apart from other grounds. I do not find any infirmity in the impugned order passed by the learned District Authority which is upheld and the appeal is dismissed at the stage of admission."

25. We find that the learned Single Judge has not considered the detail orders passed by the District Level Authority/State Appellate Authority from which the writ petition arose. In other words, the writ petition challenged the order

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passed by the State Appellate Authority, but the learned Single Judge, without adverting to the same, has exercised the power conferred upon a Writ Court under Article 226 of the Constitution of India, which is clearly erroneous.

26. What is important is also that, as stated by the State Appellate Authority, pursuant to the selection made in the year 2006, selections to the post of Panchayat Teacher were also held in the subsequent years. In that sense, when selections subsequent to the impugned selection had been held for several years, it was too late in the day for respondent no. 13/writ petitioner to challenge a selection which was held in the year 2006. To that extent, the selection of 2006 had attained finality. Not only the selection of 2006 attained finality, but even the subsequent selections and appointment in 2006 could not have been made the subject matter of challenge, that too after almost 12 years from the date of the selection.

27. Having said that, we must hold that the impugned order passed by the learned Single Judge dated 27.01.2025 is clearly erroneous, as it overlooks the aforesaid important aspects of the case and also fails to advert to the impugned order passed by the State Appellate Authority.

28. We are of the view that the State Appellate

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Authority was justified in holding that the appeal filed by respondent no. 13 before the District Level Authority challenging the selection of 2006 was clearly barred by limitation. Hence, we set aside the order dated 27.01.2025 passed by the learned Single Judge in C.W.J.C. No. 3650 of 2020.

29. Accordingly, the appeal stands disposed of and the impugned order dated 27.01.2025 passed in C.W.J.C. No. 3650 of 2020 is hereby set aside.

30. Interlocutory Application(s), if any, shall also stand disposed of.

(V. Kameswar Rao, CJ)

(Partha Sarthy, J): I agree

(Partha Sarthy, J)

Neha/-

AFR/NAFR	AFR
CAV DATE	29.09.2026
Uploading Date	15.10.2026
Transmission Date	

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