

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14167 of 2023

1. Jyoti Prakash, Son of Late H. K. Sahay, Resident of 1-144, A. G. Colony, P.S.- Shastrinagar, District- Patna.
2. Jawahar Prasad Singh, Son of late Kedar Narayan Singh, Resident of Village- Bhasti, P.S.-Sonbarsa, District- Saharsa.
3. Krishan Bihari, son of Late Rajeshwar Prasad, resident of house No.23, Kailash Enclave, Sheopuri, Police Station-Shastri Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna-800001.
2. The Chief Secretary, State of Bihar, Old Secretariat, Patna-800001.
3. The Department of Law through its Secretary -Cum- Legal Remembrance, Government of Bihar, Patna-800001.
4. The Secretary -Cum- Legal Remembrance, Department of Law, Government of Bihar, Patna- 800001.
5. The Department of Finance through its Principal Secretary, Government of Bihar, Patna-800001.
6. The Principal Secretary, Department of Finance, Government of Bihar, Patna-800001.
7. The Patna High Court through its Registrar General, Bihar, Patna-800004.
8. The Registrar General, Patna High Court, Patna- 800004.
9. The Patna High Court Mediation Committee, through its Convener, Patna High Court, Patna- 800004.
10. The Convener, Patna High Court Mediation Committee, Patna High Court, Patna-800004
11. The Patna High Court Mediation Center, through its In-charge Coordinator, Patna High Court, Patna- 800004
12. The In-charge Coordinator, Patna High Court Mediation Committee, Patna High Court, Patna- 800004.
13. The Patna High Court Legal Services Committee, through its Secretary, Patna High Court, Patna- 800004.
14. The Secretary, Patna High Court Legal Services Committee, Patna High Court, Patna-800004.
15. The Bihar State Legal Services Authority, through its Member Secretary, Budha Marg, Opposite Patna Museum, Patna-800004.
16. The Member Secretary, Bihar State Legal Service Authority, Budha Marg, Opposite Patna Museum, Patna-800004.
17. The Union of India through its Secretary, Law and Justice, New Delhi.



18. The Secretary, Law and Justice, New Delhi.
19. The National Legal Service Authorities through its Member Secretary, 12/11, Jamnagar House, Shahjahan Road, New Delhi-110011.
20. The Member Secretary, National Legal Service Authorities, 12/11, Jamnagar House, Shahjahan Road, New Delhi-110011.
21. The Supreme Court of India through its Registrar General, Tilak Marg, Mandi House, New Delhi, Delhi 110201.
22. The Registrar General, Supreme Court of India, Tilak Marg, Mandi House, New Delhi, Delhi 110201.
23. The Mediation and Conciliation Committee, through its Member Secretary, Supreme Court of India, Tilak Marg, Mandi House, New Delhi, Delhi 110201.
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... .. Respondent/s

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Appearance :



For the Petitioner/s : Mr. Ratnesh Kumar Singh, Advocate
For the Respondent/s : Mr. P. K. Shahi, Advocate General
Mr. Vikash Kumar, AC to AG
For the Patna High Court : Mr. Piyush Lall, Advocate

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE HARISH KUMAR)**

Date : 13-03-2026

We have heard the learned Advocate for the respective parties.

2. The writ petitioners before this Court are practicing Advocates and Mediator duly trained in the Patna High Court, Patna, have challenged the validity of the Bihar Civil Procedure (Mediation) (Amendment) Rule, 2019, which is said to have been enacted without legislative jurisdiction and contrary to the scheme and object of mediation formulated by the order of the Hon'ble Supreme Court. Direction has also been sought for payment of arrears of fee and its enhancement, implementation mediation schemes in its true spirit, restructuring of the Mediation committee, creating of financial head for mediation center and change of administrative setup of the Patna High Court Mediation Center for its betterment management.

3. Without delving into the merit of the case, it would be pertinent to take note of the fact that earlier when the matter was taken up on 06.12.2023, the learned Advocate General



raised an objection that the new mediators, who were duly appointed have not been impleaded and the writ petition may affect their rights also, in such circumstance, this Court had directed to implead them within a period of four weeks.

4. In pursuance thereof, the petitioner filed an application on 13.01.2024 to implead the persons, who have been newly appointed, however, it was submitted that that the petitioners claim no relief against the said persons. This Court after hearing the learned Advocate for the petitioners categorically observed that the attempt of the writ petitioners seems to be to wriggle out of the responsibility of taking out notice to all the other respondents and accordingly did not accept the statement of the learned Counsel that the petitioners do not claim any relief against the newly appointed mediators. It was made clear that if the rule challenged is set aside, necessarily their appointment would be in peril and in such circumstance, they have to be heard since serious prejudice will be caused to them. Thus, in the aforesaid premise, the petitioners were directed that they ensure that the petition for impleadment is filed properly.

5. In deference to the order of this Court, an interlocutory application, bearing I.A. No. 3 of 2024 has been



filed for amendment of the writ petition, as also incorporating the subsequent development and adding the necessary party, as respondents, accordingly vide order dated 23.01.2024 considering the averments made in the interlocutory application, the same was allowed and notices were issued to the newly added respondents under both process, i.e., ordinary as well as registered post with A.D., for which necessary requisites were directed to be filed within a period of two weeks.

6. During the pendency of the present writ petition, one more interlocutory application, bearing I.A. No. 4 of 2024 came to be filed seeking modification of the order dated 23.01.2024, whereby this Court has been pleased to allow the amendment for impleading the parties and had issued notices. This Court has also been informed that during the pendency of the writ petition, 36 Mediators, including the petitioners were removed from the Mediators panel of the Patna High Court after enactment of Mediation Act on 15.09.2023. Further 40 Advocates were appointed and trained as Mediators and 20 Mediators were retained after approval of the Hon'ble Chief Justice on recommendation of the Patna High Court Mediation Centre, Patna. The action of the Patna High Court Mediation Centre, Patna is said to be wholly without jurisdiction, illegal,



void and ab-initio. It is further submitted that issuance of notices by both process would entail heavy cost upon the petitioners and thus prayer has been made to modify the order dated 23.01.2024 and allow the petitioners to serve the notices through Dasti Summons. The Court, however, dismissed I.A. No. 4 of 2024 vide order dated 27.02.2024 and directed the petitioners to take steps for fresh service of notice upon newly added respondents, failing which the present writ petition shall stand rejected against the newly added respondents.

7. Despite the orders having been passed by this Court, the requisites have not been filed for service of notices upon the newly added respondents till date and when this matter was taken up on 24.02.2026, Mr. Ratnesh Kumar Singh, learned Advocate referring to the earlier order dated 27.02.2024 has submitted that the writ petition only stood dismissed against the newly added respondents and still surviving against the remaining respondents i.e. respondent nos. 1 to 24. It is vehemently contended that since the writ petition is filed challenging the validity of the Bihar Civil Procedure (Mediation) (Amendment) Rule, 2019, (hereinafter referred to as 'the Rule, 2019'), hence the matter is required to be heard and decided on merit, even if the writ petition has been



dismissed against the newly added respondent nos. 25 to 83.

8. Mr. Piyus Lall, learned Advocate for respondent nos. 7 to 16 has submitted that not only the petitioners in defiance of the repeated orders of this Court have failed to deposit the requisites for issuance of notices upon the newly added respondents, the petitioners have also sought an additional relief by filing an interlocutory application, bearing I.A. No. 2 of 2023 in the present writ petition seeking a direction from this Court to call for the decision and recommendations of the Patna High Court Mediation Committee, Patna and quash the same upon its production, besides seeking quashing of Memo No. 1530-53 dated 11.10.2023 issued under the signature of the Registrar-cum-Coordinator, Patna High Court Mediation Centre wherein on the basis of the recommendation of the Patna High Court Mediation Committee, the Hon'ble Chief Justice has been pleased to approve the list of 20 existing Mediators of the Patna High Court Mediation Centre for renewal of their tenure for a further period of three years in terms of Rule 4 of the Rule, 2019. The petitioners also sought quashing of the Office Order dated 11.10.2023 wherein on the basis of the aforementioned recommendation, the Hon'ble Chief Justice has been pleased to



approve the names of 40 learned Advocates for their empanelment as Mediator in the Patna High Court Mediation Centre for the period of three years.

9. Taking this Court through the prayer made in the interlocutory application, noted hereinabove, he thus submitted that at one hand the petitioners are challenging the approval of the names of the learned Advocates for their empanelment as Mediator in the Patna High Court Mediation Centre, on the other hand they have knowingly not deposited the requisites for service of notice upon them, hence the continuation of the writ proceeding without making the necessary persons, as party respondents, are wholly bad and illegal.

10. After careful consideration of the submissions led by the learned Advocates for the respective parties, the primal question posed before this Court is as to whether in absence of necessary parties, the High Court ought to decide the writ petition, who would be vitally affected by its judgment.

11. It is well settled in law that no adverse order can be passed against a person, who was not made party to the litigation. The Hon'ble Supreme Court while answering the similar contention raised by the appellant in the case of ***Ranjan Kumar & Ors. Vs. The State of Bihar & Ors.***, reported in



(2014) 16 SCC 187 noticed the fact that the appellants were not impleaded as respondents before the High Court and without taking note of the said aspect, the High Court has invalidated the selection and nullified their appointments which is violative of the principles of natural justice, has been pleased to hold that all the appointees were not impleaded, the writ petition was defective and hence, no relief could have been granted to the writ petitioners.

12. It would be worth benefiting here to refer to paragraph no.28 of the judgment of *Prabodh Verma and Others Vs. State of Uttar Pradesh and Others*, reported in *(1984) 4 SCC 251* wherein the three-Judges Bench of the Hon'ble Supreme Court has taken note of the previous rulings passed in different cases and re-affirmed and reiterated the settled principle that a High Court ought not to decide a writ petition under Article 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as respondents or at least by some of them being before it as respondents in a representative capacity if their number is too large.

“28. The real question before us, therefore, is the correctness of the decision of the High Court in the Sangh case [1979 All LJ 178]. Before we address



ourselves to this question, we would like to point out that the writ petition filed by the Sangh suffered from two serious, though not incurable, defects. The first defect was that of non-joinder of necessary parties. The only respondents to the Sangh's petition were the State of Uttar Pradesh and its concerned officers. Those who were vitally concerned, namely, the reserve pool teachers, were not made parties — not even by joining some of them in a representative capacity, considering that their number was too large for all of them to be joined individually as respondents. The matter, therefore, came to be decided in their absence. A High Court ought not to decide a writ petition under Article 226 of the Constitution without the persons who would be vitally affected by its judgment being before it as respondents or at least by some of them being before it as respondents in a representative capacity if their number is too large, and, therefore, the Allahabad High Court ought not to have proceeded to hear and dispose of the Sangh's writ petition without insisting upon the reserve pool teachers being made respondents to that writ petition, or at least some of them being made respondents in a representative capacity, and had the petitioners refused to do so, ought to have dismissed that petition for non-joinder of necessary parties.”

13. Having considered the enunciation of the law, as



referred hereinabove, as also the prayer made by the writ petitioners in I.A. No. 02 of 2023 seeking quashing of Memo No. 1530-53 dated 11.10.2023 whereby 20 existing Mediators of the Patna High Court Mediation Centre for their renewal has been approved by the Hon'ble Chief Justice of Patna High Court based upon the recommendation of the Patna High Court Mediation Committee and further approval has also been made to the names of 40 learned Advocates for their empanelment as Mediator in the Patna High Court Mediation Centre in terms with the prescription of the amended Rule, 2019, this Court prima facie found that the learned Advocates, whose names were approved for their empanelment are necessary parties and any order passed in the present writ petition would certainly vitally affect them.

14. In the aforesaid premises, this Court had already rejected the contention of the learned Advocate for the petitioners that no relief has been sought for against the newly appointed Mediators and thus directed to implead the necessary persons as party respondents and accordingly in pursuance thereof the petitioners have also taken steps to implead them as party respondents, but failed to deposit the requisites for service of notices upon them in defiance with the order of this Court.



Hence, this Court is of the opinion that further continuation of the writ petition is wholly bad and illegal on both counts, as discussed hereinabove.

15. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

Sangam Kumar Sahoo, CJ: I agree

(Sangam Kumar Sahoo, CJ)

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| AFR/NAFR | NAFR |
| CAV DATE | 24.02.2026 |
| Uploading Date | 13.03.2026 |
| Transmission Date | NA |

