

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12632 of 2025

Shobha Kumari Wife of Sri Ravi Kant Kumar, Daughter of Late- Bhola Prasad Giri, Residence of Village- Khedalpura, P.O. and P.S- Bihta, District- Patna, State- Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The District Education Officer, Patna.
3. The Block Education Officer, Bihta, Patna.
4. The Head Master U.M.S., P.O. and P.S.- Bihta, District- Patna.
5. The District Appellate Authority, Patna.
6. The Chairperson State Appellate Authority, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ravi Kant Kumar, Advocate
For the Respondent/s : Mr. Subodh Kumar, AC to SC(26)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 05-08-2025

Heard Mr. Ravi Kant Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Subodh Kumar,
learned AC to SC(26) for the State.

2. Petitioner has *inter alia* prayed for following reliefs
in the paragraphs No.1 of the writ petition:-

“(A) To issued the writ of certiorari and set aside the order dated 19/06/2024 Contained Annexure 5 Passed by Learned District Authority Patna (Res. 5), in Appeal Case No. 94 of 2023 whereby and where under refused to Granted the Maternity Leave to the Since 23.03.2023 to 19.09.2023 to the petitioner which is provided to benefit of maternity leave up to 180 days had been made available for Women Teacher Under Section 20 (1) (iii) of the Bihar Panchayat Elementary School Service (App. Promotion, Transfer, Disciplinary Proceeding and Service Condition) Rule 2020, it shall come into force vide Government of Bihar education Department, Notification, File Number 7/ Niyo-12/2020-



709 dated 21.08.2020.

(B) To issued the writ of certiorari and set aside the order dated 21/07/2025 Contained Annexure 6 passed by the Learned Chairperson State Appellate Authority, Bihar, Patna (Res. 6), in Case No. Appeal 70 of 2024 whereby and where under the Impugned order Passed by Learned District Authority Patna (Res. 5), in Appeal Case No. 94 of 2023 is upheld and Appeal is disallowed.

(C) To issued the writ of mandamus to commanding to the respondent/s authority to performing his legal obligation accordance with law and procedure Under Section 20 (1) (iii) of the Bihar Panchayat Elementary School Service (App. Promotion, Transfer, Disciplinary Proceeding and Service Condition) Rule 2020, it shall come into force vide Government of Bihar, education Department, Notification, File Number 7/ Niyo- 12/2020-709 dated 21.08.2020.

(D) To issued the writ of mandamus to commanding to the respondent/s authority, due to such action of the respondents/s new born child of the petitioner becomes death and E.P.F. become irregulars, hence petitioner also entitled to get the heavy compenstion from responsible respondent/s, department of Education State of Bihar.

(E) To the Proper Action against the responsible Respondent/s authority under which they has adapted to the Choose and pick method, without follows the Law & Procedure.

(F) To any other Relief or Reliefs may be allowed which will be just, proper and equitable on the opinion of this Hon'ble court. ”

3. In the present case, the petitioner is aggrieved by the action of the Block Education Officer, who has not sanctioned the maternity leave to the petitioner as per the provision of **Rule 20** of the Bihar Panchayat Elementary school service (Appointment, Promotion, Transfer, Disciplinary Proceeding and Service Condition) Rules, 2020, which is in conformity with Section 3(C) of the Maternity Benefits Act and Article 15(3) of the Constitution of India. The Apex Court



having faced with similar situation in case of ***Deepika Singh v. Central Administrative Tribunal, & Ors. in Civil Appeal No. 5308 of 2022 (Arising out of SLP (C) No. 7772 of 2021)***, held that the husband of the appellant was having two children from his first marriage, which ended as a result of death of his first wife, the maternity leave of the appellant was rejected on the ground that as per the provision of Rule 43(C) of Central Civil Services (Leave) Rules, 1972, Child Care Leave is granted on the ground that maternity leave, as contained in Rule 43, is applicable to only two children and the appellant having availed maternity leave for two children, doesn't deserve the maternity leave for third children. The Apex Court held that the child requires proper care, at the same time, the woman, who has conceived the child is compelled by social circumstances to even give up the work on the birth of the child. The Apex Court allowed the maternity leave in such circumstances. I find that the case of the petitioner is covered by the law laid down by the Apex court in case of ***Deepika Singh(Supra)***.

4. Otherwise also order dated 21.07.2025 passed by the Chairperson State Appellate Authority, Bihar, Patna (Respondent no. 6), in Case No. Appeal 70 of 2024 is not sustainable, as the same has been passed by the Officer of



Indian Administrative Service. The Tribunal quorum provided under Rule 4(3) of the *Bihar State School Teachers and Employees Disputes Redressal Rules, 2015* (hereinafter referred to as the 'Rules, 2015') has not been fulfilled. A reference in this regard can be taken to the law laid down by the Apex Court in the case of *State of Gujarat Vs. Utility Welfare Association* reported in *(2018) 6 SCC 21*, the impugned order dated 19.06.2024 passed by the District Appellate Authority in Appeal No.94 of 2023 and order dated 21.07.2025 passed by the Chairperson State Appellate Authority in Appeal no.70 of 2024 can only be held to be without jurisdiction and as such, the same are hereby **set-aside and quashed**.

5.The clarification given by the Block Education Officer also cannot be sustained.

6. The employment unit is required to sanction the maternity leave as per the mandate of Article 21 of the Constitution of India. Non-grant of maternity leave has resulted into miscarriage of justice.

7. The petitioner is entitled for maternity leave of 180 days, in light of law laid down by the Apex Court in case of *Deepika Singh(Supra)*.

8. Accordingly, the present writ application stand



disposed of.

9. There shall be no order as to costs.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.08.2025
Transmission Date	NA

