

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15887 of 2017**

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1. Kumari Bandana and Anr Daughter of Siyaram Yadav, Resident of Village-Piparpatti, P.S.-Dumari, District-Buxar Bihar.
2. Guriya Kumari, Wife of Kamlesh Prasad Resident of Village-Nagawan, P.S.-Simri, District-Buxar Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Human Resources Development, Department, Government of Bihar, Patna.
3. The District Magistrate, Buxar, District-Buxar Bihar.
4. The District Superintending of Education, Buxar, District-Buxar Bihar.
5. The Block Development Officer, Simri, District-Buxar Bihar.
6. The Block Education Education Officer, Simri, District-Buxar Bihar.
7. The Mukhiya, Gram Panchayat Raj, Dumari, District- Buxar Bihar.
8. The Panchayat Secretary Gram Sewak, Gram Panchayat Raj Dumari, District-Buxar Bihar.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Akash Chaturvedi, Adv.  
For the Respondent/s : Smt. B. Singh, SC-28

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA**  
**CAV JUDGMENT**

**Date: 23-12-2025**

Heard learned counsel for the petitioners and learned counsel appearing on behalf of the respondents.

2. The present writ application has been filed for the following reliefs:

*i. For issuance of writ in the nature of certiorari quashing the Order dated 24.08.2017 passed in Appeal No. 83 of 2017 passed by the learned State Appellate Authority, Bihar,*



*Patna whereby the Appeal preferred by the Petitioners have been rejected on baseless grounds which were never in issue without application of judicious mind.*

*ii. For issuance of writ in the nature of certiorari for quashing of the Order dated 25.01.2016 passed by the Member, District Teachers Appointment Appellate Authority, Buxar in Case No. 04 of 2013 whereby the Appeal preferred by the Petitioners have been rejected reviewing its final Order dated 09.10.2014 by which the Petitioners joining was directed to be accepted by the Respondents at the Schools in which they were appointed.*

*iii. For further issuance of writ in the nature of mandamus directing the Respondents to accept the joining of both the Petitioners as per the Orders passed by the District Teachers Appointment Appellate Authority, Buxar dated 09.10.2014.*

*iv For issuance of writ in the nature of mandamus commanding the Respondents to grant / accord the consequential benefits to the Petitioners for which they are legally entitled to from the date of issuance of their appointment letters by the Competent Authority.*



*v. For issuance of the writ in the nature of declaration holding that the appointment of the Petitioners were legal and there was no flaw in the procedure and further hold that the District Teachers Appointment Appellate Authority, Buxar have no jurisdiction to review its own Order available in the law.*

*vi. Any other relief(s) be granted to the Petitioner for which she found entitled too.*

### **FACTS**

3. The brief facts, necessary for adjudication of the present writ petition, are as follows:

(i) The petitioners were appointed as Panchayat Teachers pursuant to the selection process conducted under the **Bihar Panchayat Primary Teacher (Appointment and Service Conditions) Rules, 2006** (hereinafter referred to as “the 2006 Rules”). The appointments were made against sanctioned and vacant posts after due process of selection, counselling and verification, as would be evident from the appointment letters annexed with the writ petition (*Annexure-5 series*).

(ii) A dispute subsequently arose with regard to the legality of the alleged appointments. The matter was taken before the District Teachers Employment Appellate Authority, Buxar,



which by order dated 09.10.2014 allowed the claim of the petitioners. (*Annexure-10*).

(iii) Thereafter, the very same District Appellate Authority, by order dated 25.01.2016(*Annexure 14*), reviewed and recalled its earlier order dated 09.10.2014, holding that the earlier order suffered from error.

(iv) The petitioners assailed the order dated 25.01.2016 before the State Teachers Employment Appellate Authority, Bihar, which by order dated 24.08.2017(*Annexure 16*) dismissed the appeal and affirmed the order passed by the District Appellate Authority.

(v) Aggrieved by the aforesaid orders, the petitioners have approached this Court by filing the present writ application.

#### **SUBMISSIONS ON BEHALF OF THE PETITIONERS**

4. Learned counsel appearing on behalf of the petitioners submitted that the entire proceedings are vitiated at the threshold due to a fundamental jurisdictional error committed by the District Teachers Employment Appellate Authority. It was contended that once the District Appellate Authority passed its final order dated 09.10.2014, it became functus officio and stood divested of any authority to reopen, review, recall or modify its own decision.



5. Learned counsel emphasized that under the 2006 Rules and the 2008 Guidelines, which governed the field at the relevant point of time, no provision existed conferring any power of review upon the District Teachers Employment Appellate Authority. The authority, being a creature of statute, could exercise only such powers as were expressly conferred upon it.

6. It was further submitted that the power of review is not an inherent power and must flow from a specific statutory provision. In absence of such an enabling provision, the subsequent order dated 25.01.2016 was wholly without jurisdiction and non est in the eyes of law.

7. Learned counsel also submitted that the respondents seek to justify the impugned action by placing reliance upon the provisions introduced under the Rules of 2020, which for the first time conferred an express power of review. According to learned counsel, such reliance is legally untenable, as the Rules of 2020 are prospective in nature and cannot be applied retrospectively to validate an action taken much prior to their enforcement.

8. It was contended that the introduction of an express power of review under the 2020 Rules itself clearly demonstrates that no such power existed under the earlier statutory regime.



9. On these premises, learned counsel submitted that the order dated 25.01.2016 passed by the District Appellate Authority being without jurisdiction, all subsequent proceedings founded thereon, including the impugned order dated 24.08.2017 passed by the State Appellate Authority, are liable to be set aside, without the necessity of entering into the merits of the dispute.

#### **SUBMISSIONS ON BEHALF OF THE RESPONDENTS**

*10. Per contra*, learned counsel appearing on behalf of the respondents sought to sustain the impugned order. It was submitted that the Appellate Authorities under the statutory framework exercise quasi-judicial powers and are entrusted with the responsibility of ensuring that appointments made in violation of statutory provisions do not continue merely on technical grounds.

11. Learned counsel contended that the action of the District Appellate Authority cannot be strictly construed as a review but was undertaken to rectify an illegality which had crept into the earlier order. It was argued that the authorities are vested with sufficient incidental and ancillary powers to correct manifest errors so as to uphold the object of the statute.

12. It was further urged that disputes relating to appointment of teachers have serious public ramifications and,



therefore, the powers of the Appellate Authorities ought to be construed liberally to advance the cause of justice and to prevent perpetuation of illegality.

### **ISSUES FOR CONSIDERATION**

13. On the basis of pleadings and rival submissions, the following issues arise for consideration:

*(i) Whether, under the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 and the Guidelines of 2008, the District Teachers Employment Appellate Authority had the power to review, recall or reopen its own final order?*

*(ii) Whether the impugned order dated 25.01.2016 passed by the District Teachers Employment Appellate Authority in Appeal No.4 of 2013 is without jurisdiction?*

*(iii) Whether the subsequent proceedings culminating in the order dated 24.08.2017 passed in Appeal no. 83 of 2017 stand vitiated as a consequence thereof?*

*(iv) Whether the provisions of the Rules of 2020 can be applied retrospectively to validate the impugned action?*

### **FINDINGS OF THE COURT**

*(i) Whether, under the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 and*



*the Guidelines of 2008, the District Teachers Employment Appellate Authority had the power to review, recall or reopen its own final order?*

*(ii) Whether the impugned order dated 25.01.2016 passed by the District Teachers Employment Appellate Authority in Appeal No.4 of 2013 is without jurisdiction?*

*(iii) Whether the subsequent proceedings culminating in the order dated 24.08.2017 passed in Appeal no. 83 of 2017 stand vitiated as a consequence thereof?*

*(iv) Whether the provisions of the Rules of 2020 can be applied retrospectively to validate the impugned action?*

14. All the aforesaid four issues are being answered as follows:

15. A careful and conjoint reading of the provisions of the Rules 2006 and the Guidelines of 2008, makes the statutory scheme abundantly clear. The Rules lay down the procedure for selection and appointment of teachers, regulate their service conditions, and provide for adjudication of disputes by the designated Appellate Authority. The jurisdiction of the Appellate Authority is confined to hearing and deciding appeals arising out of disputes relating to appointment.



16. Significantly, the Rules do not contain any provision either express or by necessary implication conferring upon the Appellate Authority the power to review, recall or reopen its own final order once the same has been passed.

17. The legal position in this regard is no longer res integra. It is well settled that the power of review is not an inherent attribute of a judicial or quasi-judicial authority and must emanate from a specific statutory conferment.

18. In *Patel Narshi Thakershi v. Pradyumansinghji Arjunsinghji*, (1971) 3 SCC 844, the Supreme Court authoritatively held (*paragraph 4*):

*“It is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication. No provision in the Act was brought to notice from which it could be gathered that the Government had power to review its own order.”*

19. Applying the aforesaid principle, this Court finds that in absence of any express provision under the Rules 2006 and Guidelines 2008, the Appellate Authority could not have assumed unto itself the power to review or revisit its own final decision.



Once the final order was passed, the Authority became functus officio.

20. Similarly, in ***Dr. Kuntesh Gupta v. Management of Hindu Kanya Mahavidyalaya, (1987) 4 SCC 525***, it was held (*paragraph 11*)

*“It is now well established that a quasi-judicial authority cannot review its own order, unless the power of review is expressly conferred on it by the statute under which it derives its jurisdiction.”*

21. The power of review was explicitly introduced for the first time under Rule 15 of the Rules of 2020. The express incorporation of such power in 2020 clearly indicates that no such power existed earlier.

22. Rule 15 of the Rules of 2020 specifically provides that *“The Appellate Authority shall have jurisdiction to review its own order and to rectify any error in the order.”* The express conferment of such power under the Rules 2020 is of decisive significance.

23. The very fact that the legislature found it necessary to introduce an explicit provision conferring power of review in 2020 leaves no manner of doubt that such power did not exist



under the earlier statutory regime, namely the Rules of 2006 read with the Guidelines of 2008.

24. The power of review being substantive in nature cannot be applied retrospectively so as to validate actions taken at a point of time when no such power existed.

25. In *Kalabharati Advertising v. Hemant Vimalnath Narichania*, (2010) 9 SCC 437, the Supreme Court observed (paragraph 12 to 14) that:

“12. It is settled legal proposition that unless the statute/rules so permit, the review application is not maintainable in case of judicial/quasi-judicial orders. In the absence of any provision in the Act granting an express power of review, it is manifest that a review could not be made and the order in review, if passed, is ultra vires, illegal and without jurisdiction. (Vide *Patel Chunibhai Dajibha v. Narayanrao Khanderao Jambekar and Harbhajan Singh v. Karam Singh*.)

13. In *Patel Narshi Thakershi v. Pradyuman Singhji Arjunsinghji*<sup>3</sup>, *Major Chandra Bhan Singh v. Latafat Ullah Khan*, *Kuntesh Gupta (Dr.) v. Hindu Kanya Mahavidyalaya, State of Orissa v. Commr. of Land Records and Settlement and Sunita Jain v. Pawan Kumar Jain* this Court held that the power to review is not an inherent power. It



*must be conferred by law either expressly/specifically or by necessary implication and in the absence of any provision in the Act/Rules, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.*

*14. Therefore, in view of the above, the law on the point can be summarised to the effect that in the absence of any statutory provision providing for review, entertaining an application for review or under the garb of clarification/modification/correction is not permissible.”*

26. Applying the aforesaid statutory and legal principles to the facts of the present case, this Court finds that the order dated 9.10.2014 passed by the District Teachers Employment Appellate Authority, Buxar had attained finality. At that stage, the Authority stood divested of jurisdiction to reopen or reconsider the matter.

27. The State Appellate Authority, Bihar while passing the order dated 24.08.2017, proceeded on the erroneous assumption that the merits of the dispute could be reopened,



notwithstanding the absence of any statutory power of review under the governing Rules at the relevant time.

28. Such an exercise amounts to an assumption of jurisdiction which the statute did not confer. Accordingly, the impugned order dated 25.01.2016 passed in Appeal no 04/2013 and order dated 24.08.2017 passed in Appeal no 83 of 2017 is ex facie without jurisdiction.

29. All the four issues are answered in favour of the petitioners.

30. Having found and held that the District Teachers Employment Appellate Authority, Buxar under the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 read with the Guidelines of 2008, had no power to review, recall or reopen its own final order. Consequently, the proceedings initiated on the basis of the order dated 25.01.2016 suffer from lack of jurisdiction.

31. Accordingly, the impugned order dated 25.01.2016 passed by District Teachers Employment Appellate Authority, Buxar in Case no. 04/2013 and order dated 24.08.2017 passed by State Appellate Tribunal, Bihar in Appeal no. 83 of 2017 cannot be sustained and is hereby set aside.



32. The respondents are directed to accept the joining of both the petitioners as per the order dated 09.10.2014 passed by the District Teacher Appellate Authority, Buxar, and pursuant to their appointments, the respondents are further directed to grant all consequential benefits to which the petitioners would be legally entitled to with effect from the date of issuance of their appointment letters. The aforesaid exercise shall be completed within a period of fifteen days from the date of passing of this judgment.

33. The writ petition is allowed in the aforesaid terms. All pending interlocutory application(s) stands disposed of. There shall be no order as to costs.

**(Alok Kumar Sinha, J)**

Prakash Narayan

AFR/NAFR	AFR
CAV DATE	19.12.2025
Uploading Date	23.12.2025
Transmission Date	NA

