

Bihar State School Teachers and Employees Disputes Redressal Rules, 2015

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Rule

BIHAR-STATE-SCHOOL-TEACHERS-AND-EMPLOYEES-DISPUTES-RE of 2015

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Bihar State School Teachers and Employees Disputes Redressal Rules, 2015Published vide Notification No. 7/V 3-80/2011-513, dated 13.05.2015Last Updated 7th February, 2020No. 7/V 3-80/2011-513-Preamble. - In exercise of the powers conferred under Article 162 and 243 of the Constitution of Indian and section 47 read with section 146 of Bihar Panchayati Raj Act, 2006 and in the provisions of section 46, 47 read with section 419 of Bihar Municipal Act,2007 and section 38 of "The Right of Children to Free and Compulsory Education Act, 2009, the state government of Bihar is pleased to make the following Rules for redressal of complaints and appeals related to employment of teachers and non-teaching employees on a fixed pay in Elementary, Secondary and Higher Secondary Schools (including government aided and minority schools) of the state by the Panchayati Raj institutions and urban institutions under the notified Employment Rules, 2006 and subsequently notified Employment Rules and also the disputes between the management and the teaching and non-teaching employees of non-government, non-aided elementary, secondary and higher secondary schools The Bihar State School Teachers and Employees Disputes Redressal Rules, 2015Chapter - 1

1. Short title, extent and commencement.

(1)These Rules may be called The Bihar State School Teachers and Employees Disputes Redressal Rules, 2015.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force with immediate effect.

2. Definitions.

- In these Rules, unless there is anything repugnant to the subject or context: -(i)"Elementary School" means the government /nationalised primary and middle school (government aided schools are included in it) established for imparting education up to class V or class VIII;(ii)"Secondary school" means the government / nationalised / project / minority school imparting education up to class X;(iii)"Higher Secondary school" means the government / nationalised / project / minority school up to class XII;(iv)"Minority school" means the school governed by the linguistic or religious community defined under clause (1) of Article 31 of the Indian Constitution and is getting grants from the government;(v)"Niyojit Teacher" means the teacher employed in elementary, secondary and higher secondary schools of the state according to Niyojan Niyamawali-2006 and under the successive employment Rules after that;(vi)"Niyojit Karmi" means the librarians, clerks, peons and other employees of the elementary / high and higher secondary schools employed according to Niyojan Niyamawali;(vii)"Non-Government and Non-aided" schools means Elementary, Secondary and Higher Secondary schools which are constituted and managed by the management committee of the society/trust within the state;(viii)"Government" means Government of Bihar;(ix)"Department" means the Education Department;(x)"Niyojan Niyamawali" means the Niyamawali notified for employment of teachers and non-teaching employees from elementary schools to higher secondary schools;(xi)"Appellate Authority" means the District Appellate Authority Constituted at the district level and the State Appellate Authority Constituted at the state level;(xii)"District Appellate Authority" means an authority constituted at the district level under these rules;(xiii)"State Appellate Authority" means an authority constituted at the State level under these rules to hear appeal against the order of District Appellate Authority under these rules;Chapter - 2

3. Establishment of Appellate Authority.

(1)The state government shall constitute a two member District Appellate Authority in each district to exercise the jurisdiction, powers and authority conferred to the Appellate authorities by these Rules and may also allocate the Jurisdictions among the presiding officers of the District Appellate authority from time to time.(2)The state government shall constitute one or more than one State Appellate Authority to exercise the Jurisdiction, Powers and authority conferred by these Rules to hear the appeal against the orders passed by the District Appellate Authorities.

4. Composition of Appellate Authority.

(1)The District Appellate Authority shall consist of two persons only (herein after referred to as the presiding officer) to be appointed by the State Government. One presiding officer will be a retired officer of Bihar Judicial service and another will be a retired officer of Bihar Administrative service or Bihar Education Service.(2)Notwithstanding anything contained in subsection (1), the State Government may authorise the presiding officer of one Appellate Authority to discharge the functions of the presiding officer of another Appellate Authority.(3)The State Appellate Authority shall constituted at State level consisting of two persons only (herein after each referred as the separate chairperson) who will be appointed by the State Government for hearing the appeal against

the order passed by the District Appellate Authorities. One chairperson will be a retired Justice of Hon'ble High Court and another will be a retired officer of Indian Administrative Service not below the rank of Principal Secretary. The State Government may authorise the Chairperson of one State Appellate Authority to discharge the functions of the Chairperson of another State Appellate Authority.

5. Qualification for nomination as Presiding Officer/Chairperson.

(1)The officer shall be qualified for nomination / appointment as the presiding officer of a District Appellate Authority only who :-(a)is or has been or is qualified to be a District Judge or Additional District Judge;or(b)has, held class I posts under Bihar Administrative Service or Bihar Education Service, for at least two years;(2)The officer shall be qualified for nomination / appointment as the Chairperson of a State Appellate Authority only who :-(a)has been a Justice of Hon'ble High Court, or(b)has been an officer of Indian Administration Service and has held the post of Principal Secretary/ Level of Principal Secretary for at least two years.

6. Term of office of the presiding officer.

- The Presiding Officer of the District Appellate Authority shall hold the office for a term of 5 years from the date on which he enters upon his office or until he attains the age of 70 (seventy) years whichever is earlier. The Chairperson of State Appellate Authority shall hold the office for a term of 5 years from the date on which he enters upon his office or until he attains the age of 70 (seventy) years whichever is earlier.

7. Appointment of Presiding Officer/Chairperson.

(1)The Presiding Officer of the District Appellate Authority shall be appointed by the approval of the Minister of Education Department on the recommendation of the screening committee constituted under the Chairmanship of the Principal secretary, Education Department.(2)The Chairperson of the State Appellate Authority shall be appointed by the approval of the Chief Minister of the State on the recommendation of the Education Department.

8. Resignation and removal.

(1)The Presiding Officer of a District Appellate Authority may, by notice in writing under his hand addressed to the State Government, may resign his office:Provided that the Presiding Officer of a District Appellate Authority shall, unless he is permitted by the State Government to relinquish his office shall continue to hold office until expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.(2)The State Government may remove any Presiding Officer of the District Appellate Authority from his post due to misbehaviour or incapacity of work, laxity in discharge of responsibilities, passing orders against the set rules of the Government, having another employment on pay holding this post. But before removing him from his post, a reasonable

opportunity shall be given of being heard.(3)The Chairperson of a State Appellate Authority may, by notice in writing under his hand addressed to the State Government, may resign his office. The State Government may remove any chairperson of the State Appellate Authority from his post due to misbehaviour or incapacity of work, laxity in discharge of responsibilities, after giving him a reasonable opportunity of being heard.

9. Salaries and Allowances of Presiding Officer of Appellate Authority.

(1)The Presiding Officer of District Appellate Authority will get the same amount of pay every month which may be determined by the Finance Department. In addition to this, he will get a fixed sum of Rs. 10,000/- (Ten thousand) as house and transport allowances per month;(2)The presiding officer will be entitled for 16 days of casual leave and 20 days of medical leave in a year. In addition, he can also avail of an extraordinary leave for 60 days in a year without pay.(3)Salaries Allowances and service conditions of the Chairperson of State Appellate Authority. The Chairperson of the State Appellate Authority will get the same amount of pay every month which may be determined by the Finance Department from time to time. In addition to this, he will get other allowances and facilities which may be admissible to him at the time of retirement.

10. Staff of the Appellate Authority.

(1)The State Government shall determine the nature and categories of officers and other employees required to assist the Appellate Authorities in the discharge of its function and provide the Appellate Authorities with such officers and other employees as it may think fit.(2)The salaries and allowances and other conditions of service of the officers and other employees of an Appellate Authority shall be such as may be prescribed by the department.(3)The officer and employees of an Appellate Authority shall discharge their functions under the general superintendence of the Presiding Officer.

11. Amount for the office of Appellate Authority.

- Necessary amount will be provided to the Appellate Authority each year by the Government.

12. Bank account and its operation.

- The Appellate Authority shall have its own bank account and seal. The bank account will be operated as per the direction of the Government.

13. Powers and functions of the District Appellate Authority.

(1)The District Appellate Authority shall hear and dispose of the complaints / appeals related to employment of Niyojit teachers, librarians and other Niyojit functionaries of Government / Nationalised elementary, secondary and higher secondary schools (including government aided / minority schools). It shall also hear and dispose of the disputes/appeals related to their service conditions. Besides, it shall also hear and dispose of the disputes related to service matter between

management and teaching / non-teaching functionaries of non-government and non-aided schools functioning in the state.(2)The office of the District Appellate Authority shall maintain properly all types of documents related to complaint / appeal.(3)All types of complaints / appeals shall be filed before the District Appellate Authority within 30 days from the date of its occurrence. The Authority may condone the delay in filing the complaint / appeal received after 30 days on reasonable grounds.(4)The District Appellate Authority, while enquiring into any matter and hearing any matter, shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure 1908, in respect of the following matters, namely :-(a)Summoning and ensuring the attendance of persons and compel them to give oral or written evidence on oath and to produce documents;(b)Requiring the discovery and inspection of documents;(c)Receiving evidence on affidavit;(d)Issuing summons for examination of witnesses or documents;(5)The Presiding Officer of the Appellate Authority shall enquire and hear each complaint / dispute and shall pass order.(6)The Appellate Authority may get the matter enquired by the officers of Education department or by any other administrative officer of the district;(7)The Appellate Authority may generally dispose of a complaint / dispute within 90 days from the day of receiving.

14. Powers and functions of the State Appellate Authority.

(1)The appeal against the orders of District Appellate Authority shall be heard and disposed of by the State Appellate Authority.(2)All types of appeals shall be filed before the State Appellate Authority within 30 days from the date of the order passed by the District Appellate Authority but the Appellate Authority will have power to condone the delay in filing the appeal on reasonable grounds.(3)The State Appellate Authority, while enquiring into any matter and hearing any matter, shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure 1908, in respect of the following matters, namely :-(a)Summoning and ensuring the attendance of persons and compel them to give oral or written evidence on oath and to produce documents and things;(b)Requiring the discovery and inspection of documents;(c)Receiving evidence on affidavit;(d)Issuing summons for examination of witnesses or documents;

15. Power of punishment.

(1)The directions given for submitting required documents and the orders passed in complaint / appeal cases by the District Appellate Authority shall be complied by the concerned authorities and employment units;(2)The District Appellate Authority may take cognizance, in case of non compliance of its directions and orders, The petitioner may also file a case regarding non-compliance of the order of the District Appellate Authority.(3)The Appellate Authority may issue notices to the parties concerned and shall give a reasonable time to comply the directions / orders.(4)In the case of non-compliance of the directions / orders, the Appellate Authority may impose a fine up to Rs. 50,000/- (Fifty thousand rupees) on the responsible party. In addition to this, the Appellate Authority may recommend for departmental proceeding and necessary action against the guilty persons under the provisions of Bihar Service code, Panchayati Raj Act, Municipal Act and other Rules. The Party concerned shall be given reasonable opportunity of being heard before imposing any penalty on them. The amount of penalty shall be deposited in the treasury in the Head communicated / specified by the department. The amount of penalty shall be recovered as

public demand.

16. Proceeding before an Appellate Authority to be judicial proceeding.

- All proceeding before the Appellate Authority shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

17. Chairperson/Presiding Officers and staff of Appellate Authority to be public servants.

- The Chairperson/Presiding Officer and the officers and other employees provided under these Rules shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

18. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the Chairperson/Presiding Officer or any other person authorised by such Presiding Officer for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made there under.

19. Monitoring and Report.

(1)The Appellate Authority shall monitor the implementation of its orders;(2)Monthly and yearly report will be submitted to the Education Department regarding the number of complaints / applications received and the number of complaints / applications disposed of.(3)Details of the punishment given shall also be reported to the department.

20. Power to remove difficulties.

- The State Government, by notification, shall have the power to remove such difficulties as arises in implementation of the provisions of these rules after due consideration.

21. Dissolution of Appellate Authority.

- On the dissolution of Appellate Authority, its assets and liabilities shall vest in the Education Department.

22. Repeal and savings.

(1)"The Bihar State School Teachers and Employees Disputes Redressal Rules 2013" and subsequent orders/instructions passed under the said Rules, 2013 are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken by in exercise of any powers conferred to the Appellate Authority by or under the said Rules shall be deemed to have been done or taken in the exercise of

the powers conferred by or under these Rules, as if these Rules were in force on the day on which such thing or action was done or taken.