

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8921 of 2022

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Bashishth Kumar S/o Ram Ekwil Prasad R/o Village- Adarsh Nagar, (Barka Rajpur), P.S.- Simri, District- Buxar.

... .. Petitioner/s

Versus

1. Union of India (under Ministry of Education) through Director, National Institute of Open Schooling. Located at- A-24/25, Institutional Area Sector-62, Noida (U.P.)
2. Regional Director, National Institute of Open Schooling. Located at- Ground Floor, Lalit Bhawan, Bailey Road, Patna (Bihar) Pin Code- 800001.
3. The State of Bihar through the Principal Secretary, Department of Human Resources, Vikash Bhawan, Nehru Marg (Bailey Road) Patna.
4. The District Education Officer (D.E.O.), District- Buxar at Buxar.
5. The Block Education Officer, Simari Block at Simari.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bachan Jee Ojha
For the UOI	:	Mr. Krishna Nandan Singh, Sr. Advocate (ASGI). Mr. Manoj Singh, CGC Mr. Ankit Kumar Singh, Advocate
For the State	:	Mr. Sanjay Kumar Singh, Advocate Mr. Hitesh Suman, A.C. to S.C.-13.

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH
CAV JUDGMENT
Date :- 25.09.2026.

1. Heard learned counsel for the petitioner, learned counsel appearing for Respondent Nos. 1 and 2 (Union of India, through the Director / Regional Director, National Institute of Open Schooling), and learned counsel for the State of Bihar (Respondent Nos. 4 to 6).
2. This writ petition was filed by the petitioner, an in-service Panchayat Teacher posted at a Government Primary School in the district of Buxar, Bihar, seeking a writ of mandamus directing the respondent-authorities to publish the complete and correct result of the two-year Diploma in Elementary Education ("D.El.Ed.") correspondence course, conducted by the National Institute of



Open Schooling ("NIOS") for the Session 2017-2019, in which the petitioner had participated as an in-service untrained Primary Teacher. During the pendency of the writ petition, by way of successive supplementary affidavits, the scope of the lis has expanded to encompass the challenges pertaining to :- the stoppage of the petitioner's salary with effect from February 2023, and initiation of proceedings for the petitioner's removal from service vide Letter No. 719 dated 19.11.2024.

FACTS OF THE CASE

3. The petitioner was appointed as an untrained Panchayat Teacher vide appointment letter dated 11.08.2013, and joined service on 20.08.2013 at Primary School, Tisariya-Ke-Dera, Village Niyazipur Khurd, P.S. Simri, District Buxar.

4. The petitioner, while serving as a Panchayat Teacher, participated in the Diploma in Elementary Education (D.El.Ed.) programme for the Session 2017-2019 conducted by the National Institute of Open Schooling (NIOS). His NIOS Identity Card dated 31.05.2018, has been brought on record by way of Annexure-2.

5. The petitioner states that he successfully completed the training and participated in the written and practical examinations. He states that, when the result was published on **07.01.2020**, the result in respect of certain components was incomplete and the marks against **TMA Nos. 506, 507, 508 and 509 and WBA/PT Nos. 513 and 514** were shown as "0000", instead of the marks



obtained by him, and that the same was shown as **SYCY (Subject Yet to be Cleared Internal)**. The result has been brought on record by way of Annexure-3.

6. The petitioner states that, after noticing the aforesaid discrepancy, the Co-ordinator of the Study Centre, BRC, Chakki, Simri, Buxar, addressed a letter dated 14.06.2019, to the Regional Director, NIOS, Patna, requesting correction of the marks recorded against the concerned subjects. The said letter has been brought on record as Annexure-4.

7. The petitioner thereafter submitted a representation dated 02.02.2021, to the concerned respondent-authority for correction of his D.El.Ed. result. He submitted another representation dated 20.07.2021, containing the same grievance. The said representations have been brought on record as Annexure-5 and Annexure-5/1 respectively.

8. The petitioner states that his result was not corrected despite the aforesaid representations. He further states that the teachers who participated in the training and completed the training were given the trained-teacher scale, whereas he was deprived of the said benefit on account of non-correction of his result.

9. The petitioner consequently filed the present writ petition seeking, inter alia, a direction upon the respondents to publish/correct his complete result of the NIOS D.El.Ed. course for the Session 2017-2019 and for the other consequential reliefs as claimed in the writ petition.



10. During the pendency of the writ petition, the petitioner filed a supplementary affidavit stating that his salary was paid till **January, 2023**, but the same was stopped with effect from **February, 2023** by the concerned Block Education Officer, Simri and District Education Officer, Buxar. Further, it has been submitted that no show-cause notice was issued to him before stoppage of salary. The petitioner relied upon the letter dated 23.03.2024, issued by the Head Mistress/Head Master of the concerned school and the order dated 31.01.2023 issued by the Director, Primary Education, Government of Bihar.

11. The petitioner also referred to the order passed by the Coordinate Bench of this Court in **C.W.J.C. No. 16214 of 2019 (Md. Atayur Rahman & Ors. v. Union of India & Ors.)**, and sought direction for payment of salary with effect from **01.02.2023**.

12. The State of Bihar filed its Counter Affidavit on **04.10.2024**. It was stated therein that the correction and publication of the result was within the domain of NIOS. The State also referred to **Letter No. 544 dated 12.09.2024**, addressed to the Regional Director, NIOS, requesting publication of the corrected result of the Petitioner.

13. Respondent Nos. 1 and 2, NIOS, filed their Counter Affidavit on **21.10.2024**. NIOS stated that the D.El.Ed. programme was conducted online and that the TMA, WBA and other prescribed marks were required to be uploaded through the online portal by the Study Centre Coordinator. NIOS



further stated that the marks had been verified and uploaded through the prescribed system and disputed the subsequent handwritten/offline record relied upon by the petitioner.

14. The petitioner thereafter brought on record the fact that **Letter No. 719 dated 19.11.2024**, had been issued by the Block Education Officer, Simri, to the Block Development Officer, Simri, in respect of initiation of proceedings for removal from service, wherein the petitioner's name was shown at **Serial No. 7**. The ground stated against the petitioner was that he had not passed the NIOS examination.

15. The petitioner further brought on record a communication dated **19.12.2024**, stating that the petitioner had passed in all the papers and that the marks-sheet/certificate remained incomplete due to a mechanical/technical defect.

16. The petitioner filed a further supplementary affidavit bringing on record the order dated **31.01.2023**, issued by the Director, Primary Education, Government of Bihar and reiterating his claim regarding completion of the NIOS D.El.Ed. training and correction of the result.

17. Thereafter, a communication dated **23.08.2025** issued by the NIOS D.El.Ed. Study Centre Coordinator, Study Centre Code **471030010, BRC Chakki**, addressed to the Regional Director, NIOS, Patna, was brought on record. The said communication referred to the records relating to the



petitioner, maintained at the Study Centre and requested consideration for correction of result of the Petitioner.

18. NIOS thereafter filed a further Supplementary Counter Affidavit dated **02.07.2026**, stating that the Course-Based Assignments were an integral and compulsory part of the D.El.Ed. programme, and that the relevant marks were required to be uploaded online by the Study Centre Coordinator within the prescribed period. NIOS disputed the petitioner's claim regarding correction of the marks on the basis of the offline records and stated that the result had been processed on the basis of the marks available in the online system.

19. NIOS further stated in its supplementary counter affidavit that the petitioner had not cleared the theory examination and that a further opportunity was provided through a supplementary theory examination. NIOS relied upon the records relating to the examination and the subsequent result.

20. The dispute in the present writ petition thus relates to the entries in the petitioner's NIOS D.El.Ed. result, the correction sought by him with respect of the TMA/WBA/PT components, and the consequential issue regarding his salary and the proceedings initiated in relation to his service.

Issues involved in this case

21. On a conspectus of the pleadings, and the points of law framed by the petitioner in paragraph 2 of the writ petition, the following questions arise for determination:



- i. Whether the respondent-authorities were justified in not publishing the correct / complete result of the petitioner, and whether the entries “00-00” / “0000” against the TMA and WBA/PT marks are attributable to the petitioner or to an administrative / technical lapse at the level of the study centre and/or NIOS?
- ii. Whether the respondent-authorities were justified in not considering the communications/representations dated 14.06.2019, 02.02.2021, 20.07.2021 and 23.08.2025 seeking correction and publication of the result?
- iii. Whether the petitioner, having worked as a Primary Teacher since 20.08.2013 and having completed the NIOS D.El.Ed. training for Session 2017-2019 within the timeframe fixed by the order dated 31.01.2023 of the Director, Primary Education, Government of Bihar, is entitled to continuance in service and to the one-time relaxation extended to in-service untrained teachers?
- iv. Whether stoppage of the petitioner's salary w.e.f. February 2023, without show-cause notice, and initiation of removal proceedings vide Letter No.719 dated 19.11.2024 on a ground (“not having passed the NIOS Examination”) contradicted by the respondents' own subsequent record dated 19.12.2024 can be sustained in law?



SUBMISSIONS ON BEHALF OF THE PETITIONER

22. Learned counsel for the petitioner submits that the petitioner cannot be made to suffer for a lapse squarely attributable to the study-centre coordinator and/or NIOS in the process of uploading marks; that the letter dated 14.06.2019, sent by the Coordinator, BRC Chakki admitted by Respondent Nos.1 and 2 is itself proof that the discrepancy was recognised as a correctable technical error and not a case of failure; that the petitioner, having completed his training well within the cut-off date of 31.03.2019 (and certainly within the extended timeline of 19.10.2022 fixed for in-service teachers vide order dated 31.01.2023), is squarely covered by the one-time protection extended to in-service untrained teachers under the NCTE recognition order dated 22.09.2017; and that stoppage of salary and initiation of removal proceedings, without notice, on a factually incorrect premise, is arbitrary and violative of Articles 14 of the Constitution and of the principles of natural justice.

SUBMISSIONS ON BEHALF OF RESPONDENT NOS. 1 AND 2 (NIOS)

23. Learned counsel for Respondent Nos.1 and 2 (NIOS) submits that the D.El.Ed. programme, being wholly online, casts the primary obligation of correctly uploading marks on the study-centre coordinator; that once marks stand verified, uploaded and processed by NIOS, a subsequent handmade or offline claim is not a valid basis for reopening the result; and that the petitioner is attempting to mislead the Court through a false and concocted statement.

SUBMISSIONS ON BEHALF OF THE STATE OF BIHAR



24. Learned counsel for the State of Bihar (Respondent No.4) does not vehemently oppose the relief for correction and publication of result, and confirms that the State has itself, vide Letter No.544 dated 12.09.2024, requested NIOS to correct and publish the complete result of the petitioner, the grievance having already been recommended to the concerned authority.

DISCUSSION AND FINDINGS

25. It is necessary, at the outset, to notice the settled legal position laid down by this Court and by the Hon'ble Supreme Court regarding the recognition to be accorded to the D.El.Ed. course conducted by NIOS through the Open and Distance Learning ("ODL") mode, for in-service untrained elementary school teachers.

26. In *Sanjay Kumar Yadav & Ors. v. The State of Bihar & Ors.*, C.W.J.C. No. 19842 of 2019, decided on 21.01.2020, a learned Single Judge of this Court considered the direction issued by the Director, Primary Education, Bihar, whereby persons having obtained the D.El.Ed. course conducted by NIOS were treated as ineligible for appointment to the post of teachers in primary schools. The Court found the said direction to be based on misrepresentation and misreading of the clarification issued by the NCTE and accordingly held the impugned direction to be illegal, unsustainable and violative of Article 14 of the Constitution of India. The relevant observation in paragraph 15 reads as follows:

“...on such misrepresentation and misreading of the clarification issued by the NCTE, the Director, Primary Education has illegally issued direction that



the persons who had obtained D.El.Ed. course duly run for 18 months by NIOS are not eligible for appointment on the post of teachers in primary schools...”

27. This view came to be examined by the Hon'ble Supreme Court in ***Jaiveer Singh & Ors. v. State of Uttarakhand & Ors.***, 2023 SCC OnLine SC 1584 : 2023 INSC 1024, decided on 28.11.2023. While holding that the 2 years D.El.Ed. (ODL) course conducted by NIOS is not, generally, equivalent to the regular two-year D.El.Ed. diploma prescribed under the NCTE Notifications dated 23.08.2010 and 29.07.2011, the Hon'ble Supreme Court recognised and gave effect to the **one-time window/relaxation extended specifically to in-service teachers** already working, and required under the RTE (Amendment) Act, 2017 to acquire the minimum qualification prior to 01.04.2019 through the **NCTE recognition order dated 22.09.2017**, the very order relied upon by Respondent Nos.1 and 2 in the present case. This position was reaffirmed by the Hon'ble Supreme Court in ***Kousik Das & Ors. v. State of West Bengal & Ors.***, 2025 INSC 448, decided on 04.04.2025, wherein the one-time recognition of the 18-month NIOS D.El.Ed. for in-service teachers, read with Section 23 of the RTE Act, 2009 and the NCTE recognition order dated 22.09.2017, was upheld.

28. The present petitioner claims to fall within the category of in-service teachers covered by the one-time arrangement referred to in *Jaiveer Singh* and *Kousik Das* (supra). He was appointed as a Panchayat Teacher on 20.08.2013, and thereafter, pursued the D.El.Ed. course through NIOS for the Session 2017-2019. The petitioner



claims to have completed the said training within the period applicable to him. The reliance placed by Respondent Nos. 1 and 2 on the decision in ***Md. Ataur Rahman & Ors. v. Union of India & Ors.***, C.W.J.C. No. 16214 of 2019, would, therefore, have to be considered in the light of the petitioner's academic record and the applicable period for acquisition of the requisite training.

“The aforesaid position also requires consideration in the light of the Full Bench decision of this Court in Bibi Sakina Khatoon & Ors. v. Union of India & Ors., reported in 2024 (3) BLJ 1, wherein the Full Bench considered the position of teachers with reference to their date of appointment and acquisition of the requisite qualification. The petitioner, having been appointed on 20.08.2013, would have to be considered in the light of the principles laid down therein.”

29. This brings the Court to the principal controversy relating to the entries “00” appearing against TMA Nos. 506 to 509 and WBA/PT Nos. 513 and 514. The petitioner contends that the aforesaid entries do not correctly reflect the marks obtained by him. The material placed on record discloses the following:

- a) The Coordinator of the Study Centre, BRC, Chakki, Buxar, by letter dated 14.06.2019 (Annexure-4), requested the Regional Director, NIOS, for correction of the marks recorded against the concerned components;



- b) The existence of the aforesaid letter dated 14.06.2019 has been admitted by Respondent Nos. 1 and 2 in their Counter Affidavit dated 21.10.2024;
- c) The State, vide Letter No. 544 dated 12.09.2024 (Annexure-R/1), requested the Regional Director, NIOS, to take necessary steps for correction/publication of the petitioner's result; and
- d) The communication dated 19.12.2024 (Annexure-P/1), relied upon by the petitioner, records that the petitioner had passed in all the papers and that certain entries in the marks-sheet reflected "0000" on account of a mechanical defect, as stated therein

"The issue of correction of an NIOS D.El.Ed. result arising out of an apparent discrepancy in the recording of marks has also been considered by this Court in Khushbu Kumari v. Union of India through the Secretary, Department of Human Resource, C.W.J.C. No. 2286 of 2023, reported in 2025 Supreme (Online) (Pat) 1914."

30. In view of the aforesaid materials, the petitioner's grievance regarding the entries in the result cannot be rejected merely on the ground that the subsequent record relied upon by him was maintained in handwritten/offline form. At the same time, since NIOS disputes the correctness and evidentiary value of such material and relies upon the marks available in its online record, the question as to the actual marks obtained by the petitioner requires verification from the relevant records maintained by the



examining authority. The petitioner, having raised the discrepancy before the authorities, is entitled to have his grievance considered in accordance with the applicable procedure.

“The aforesaid principle assumes relevance in the present case, where the petitioner has brought on record a communication from the Study Centre concerning correction of the result. The decision in *Khushbu Kumari* (supra) also demonstrates that where a discrepancy in an NIOS result is brought before the Court with supporting material from the Study Centre, the grievance requires consideration on its own facts.”

31. As regards the stoppage of salary with effect from February, 2023 and the initiation of proceedings vide Letter No. 719 dated 19.11.2024, the Court finds that the basis for such action is connected with the petitioner's disputed NIOS result. In view of the conflicting materials placed on record, including the communication dated 19.12.2024, relied upon by the petitioner, it would not be appropriate for any final adverse action to be taken against the petitioner solely on the basis of the disputed result without first determining his actual academic status in accordance with the applicable procedure and without according him an opportunity of hearing.

32. This Court is conscious that it would not be appropriate to substitute its own assessment for that of the competent academic authority or to direct that particular marks be awarded to the petitioner. The appropriate course, therefore, is to require Respondent No. 2 to undertake a fresh verification of the petitioner's record, with reference to the relevant academic and examination records and the communications



placed on record by the parties, and thereafter to take a reasoned decision in accordance with law. Pending such exercise, the petitioner's service shall not be adversely affected solely on account of the disputed status of the NIOS result.

33. In view of the foregoing discussion, this writ petition is **allowed in part**, and the respondents are directed as follows:

(a) Respondent No. 2, Regional Director, NIOS, Patna, shall, within a period of **eight weeks** from the date of receipt/production of a copy of this order, undertake a fresh enquiry/verification of the petitioner's record in respect of TMA Nos. 506, 507, 508 and 509 and WBA/PT Nos. 513 and 514 for the D.El.Ed. Session 2017-2019, with reference to the letter dated 14.06.2019 (Annexure-4), the relevant averments in the Counter Affidavit dated 21.10.2024, the communication dated 19.12.2024 (Annexure-P/1), and the other relevant records available with NIOS. Such verification shall not be confined merely to the marks presently reflected in the online record, but shall consider, to the extent available, the relevant assignment, examination, attendance and other connected records. Upon completion of such exercise, Respondent No. 2 shall pass a reasoned and speaking order determining the petitioner's status in respect of the disputed components and shall thereafter revise/publish the result and issue the correct Training Certificate, as may be warranted by the outcome of such verification and in accordance with the applicable rules.



(b) Pending such verification and the decision contemplated in clause (a) above, the contents of Letter No. 719 dated 19.11.2024, insofar as it relates to the petitioner, shall remain in abeyance and no final order of removal shall be passed against the petitioner solely on the basis of the disputed NIOS result.

(c) The respondents shall not withhold the petitioner's current salary solely on account of the disputed NIOS result during the pendency of the verification exercise. The petitioner's claim for arrears of salary with effect from 01.02.2023 shall be considered by the competent authority in accordance with the applicable service rules and the outcome of the verification directed herein.

(d) In the event the verification undertaken pursuant to clause (a) discloses that the petitioner had not, in fact, appeared in or completed any of the aforesaid components, it shall be open to the competent authority to pass an appropriate reasoned order after according the petitioner an opportunity of hearing and thereafter to proceed in accordance with law.

(e) The observations made hereinabove are confined to the adjudication of the present writ petition and shall not be construed as a final expression of opinion regarding the petitioner's academic status, except to the extent specifically directed herein.



The respondents are further directed to comply with the aforesaid directions within a period of three months from the date of production of a certified copy of the judgement.

34. The writ petition, along with all pending Interlocutory Applications, if any, stands **disposed of** in the aforesaid terms. There shall be no order as to costs.

(Kumar Manish, J)

sanjeev/-

AFR/NAFR	
CAV DATE	03.09.2026
Uploading Date	25.09.2026
Transmission Date	

