

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.18874 of 2015**

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1. Md. Ashfaq Ali, (Senior Auditor), Son of Late Md. Ali Imam, resident of Mohalla- Kamal Cottage, Near Gas Godown, Saguna More, Danapur Cantt, Patna-801503.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The State Project Director, Bihar Education Project Council, Shiksha Bhawan, Rastrabhasa Parishad Saidpur, Rajendra Nagar, Patna-4.
4. The Administrative Office, State Education Project Office, Patna.
5. The Chief Accounts Officer, Bihar Education Project Office, Patna.

.... .... Respondent/s

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**Appearance :**

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|-----------------------|---|-----------------------------|
| For the Petitioner/s  | : | Mr. Rajesh Mohan            |
| For the State         | : | Mr. SC24 S.K. Mandal        |
|                       |   | Mr Bipin Kumar, AC to SC 24 |
| For Respondent 3 to 5 | : | Mr Girijesh Kumar           |

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 13-07-2016**

Petitioner's appointment under Sarva Shiksha Abhiyan is on contract. The contract is a short tenure contract because the Project itself has some kind of a deadline, which as of now is scheduled for 31.3.2017. The offer letter has been annexed by the petitioner as Annexure- 1. After the petitioner accepted the terms and conditions of Annexure- 1, Annexure- 4 has been issued in his favour.

Clause 5 of Annexure- 1 would indicate that the petitioner would be entitled to a sum of Rs.20,000/- per month with certain allowances. From a reading of Annexure-1 and Annexure- 4,

it is evident that the hiring of the petitioner is a contract for service but he would like to convert it into contract of service.

Effort on the part of the petitioner through the present writ application is to obtain a directive from this Court upon the respondent authorities to virtually alter not only his status as a contractual employee but to give him status of a permanent employee because he demands a particular pay scale at par with State Government or Central Government employee and a pay scale has also been suggested by him in the writ application.

In support of the above submission and proposition petitioner has also brought some internal communications and constitution of a committee, which he claims was constituted with the object of providing some kind of pay scale to persons like petitioner.

The counsel representing the respondent Bihar Education Project categorically submits that the committee has nothing to do with the expectation and demand of the petitioner. The object and purpose for such constitution of the committee is otherwise and the petitioner has no case or claim for a direction upon them to pay him anything more much less a pay scale of a permanent employee.

Petitioner has only taken a chance by filing the writ application, which is not supported by any principle under the service

jurisprudence.

Keeping in mind Annexure- 1 and Annexure- 4 engagement of the petitioner is contract for service and it shall remain so and if petitioner has any grievance with regard to terms and conditions of engagement or contract, the remedy for him lies before a civil court of competent jurisdiction and not to waste valuable judicial time of a constitutional court by filing a speculative kind of writ application and taking a chance. In fact, such writ application should be dismissed with award of cost because there are many poor litigants, who are in need of legal assistance and judicial protection in this society. The Court decides to caution the petitioner for the first time. May be a second time will surely invite some kind of appropriate imposition of cost.

Writ is dismissed.

**(Ajay Kumar Tripathi, J)**

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| CAV DATE          |           |
| Uploading Date    | 14.7.2016 |
| Transmission Date |           |