

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16 of 2017

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Meera Kumari, Wife of Dilip Kumar, resident of village - Gadhia - Kumarkhand,
P.O. + P.S. Kumarkhand, District – Madhepura.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Principal Secretary, Department of Personnel and Administrative Reforms,
Government of India, Patna.
4. The Director, Mass Education, Bihar, Patna.
5. The District Programme Officer (Literacy), Madhepura -Cum- District Adult
Education Officer, Madhepura.
6. The District Magistrate, Madhepura.
7. The Secretary, Central Adult Education Council, Madhepura, District
Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar, Adv.

For the Respondent/s : Mr. S.K. Ranjan, AC to GP17

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-08-2017

Heard the parties.

This is a thoroughly misconceived writ petition. The petitioner who was appointed by a Non-Governmental Organization prays for her regularization on the post of Instructor relying on a Bench decision of this Court passed in **CWJC No.8418 of 2010 (Sheo Bhajan Prasad Diwakar & Ors. Vs. The State of Bihar)** as affirmed by the Division Bench in **LPA No.1489 of 2011(The State of Bihar vs. Sheo Bhajan Prasad Diwakar & Ors.)** as well as by the Supreme Court in **SLP (Civil) No.32079 of 2015 (The State of Bihar vs. Prabhat Ranjan)**.



The State Government in its Education Department in the process of implementation of a scheme of the Government of India known as the 'Non-Formal Education Programme', floated for giving non-formal education to the children of 6-14 years in between the period 1981-82, had appointed Supervisors and Instructors to run the centers.

The scheme was closed sometime in 2001 leaving the Supervisors and Instructors so appointed by the State Government, high and dry. Although the Supervisors were accommodated but no similar steps was taken by the State Government for the persons who were appointed as Instructors. It is feeling aggrieved by such discriminatory act that those Instructors came before this Court in CWJC No.8418 of 2010 and when a Bench of this Court taking note of the sequence of events, disposed of the writ petition with a direction to the Education Department of the State Government to accord similar treatment to the Instructors who were appointed under the said scheme, for absorption. The order of the writ Court present at Annexure 12 was affirmed by the Division Bench in the Letters Patent Appeal vide Annexure-13 and also by the Supreme Court when the Special Leave Petition of the State Government was dismissed vide Annexure-14.

It is not in dispute that this petitioner was not appointed



by the State Government rather was appointed by a Non-Governmental Organization as manifest from Annexure-11 by the name and style of Central Wayask Shiksha Parishad, Madhepura.

It is because the persons who were appointed as Instructors by the Non-Governmental Organization, were trying to take benefit of the judgment and order of this Court passed in the case of **Sheo Bhajan Prasad Diwakar** (supra) that the Education Department came out with an advisory bearing Memo No.2279 dated 21.10.2016 and which clarifies the position that the Government would be considering the regularization of the services of only such of the Instructors who were appointed by the State Government and who were paid honourarium from the State Government or the department concerned. The advisory further clarifies that such of the Instructors who were appointed by the Non-Governmental Organizations which were running on the funds provided by the Central Government, would not be entitled to such benefit.

As I have observed hereinabove that the petitioner was not appointed by the State Government rather was appointed by the Non-Governmental Organization who perhaps was receiving grants from the Central Government for its operation. Obviously the petitioner not being appointed by the State Government she can



neither be accorded the relief under the orders of this Court as affirmed until the Supreme Court as present at Annexures 12 to 14 of the writ petition nor can she claim regularization on a government post which enforceable right is only available to persons appointed by the State Government and not by a private body.

As I have indicated at the outset, the writ petition is thoroughly misconceived and is dismissed accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13-09-2017
Transmission Date	NA

