

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7858 of 2014

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1. Premlata Devi wife of Late Balmiki Mahto aged about 64 years, resident of village- Mahsoni, Police Station- Lakshisarai, District- Lakhisarai

2. Satyam Mehta daughter of Late Balmiki Mahto and wife of Balmiki Prasad aged about 42 years, resident of village- Lutaut, Police Station - Karandey, District- Sheikhpura

3. Adri Verma daughter of Late Balmiki Mahto aged about 33 years, resident of village - Mahsoni, Police Station- Lakhisarai, District - Lakhisarai

4. Sambhavana Verma daughter of Late Balmiki Mahato and wife of Mangal Murti aged about 30 years, resident of Mohalla- Ramchandarpur Professor Colony, Police Station- Laheri, District- Nalanda.

5. Nishant Kumar son of Late Balmiki Mahato aged about 38 years, resident of village - Mahsoni, Police Station- Lakhisarai, District - Lakhisarai

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Secretariat Building, Patna

2. The Bihar Education Project Council, Shiksha Bhawan, Bihar Rastrabhasha Parishad Campus, Saidpur, Rajendranagar, Patna - 800004 through its Secretary

3. The State Project Director, Shiksha Bhawan, Bihar Rastrabhasha Parishad Campus, Saidpur, Rajendranagar, Patna - 800004

4. The District Education Officer, Sheikhpura

5. The District Programme Officer, Sarva Shiksha Abhiyan, Sheikhpura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Priyadarshi, Advocate

For the State : Mr. Prayadarshi Matin, Sharan, A.C. to A.A.G.-15

For the B.E.P.C. : Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 16-03-2017



This writ application was filed by one Balmiki Matho. During pendency of the writ application the original petitioner died and under the orders of the court his name was deleted and in his place the petitioners being the legal heirs were substituted.

2. In the writ application, a prayer was made for issuance of a direction to the respondents to pay the amount of gratuity.

3. The contention of the petitioners is that the original writ petitioner was appointed to the post of Assistant Programme Officer initially for one year on 22.12.1997 by the Bihar State Project Council. However, he continued to be an employee of the Council till 31.08.2013, the date on which he retired. It is contended that the deceased employee was entitled to receive gratuity in view of the Bihar Shiksha Pariyojana Parishad Service Regulations, 1994, but the payment of the gratuity amount has been denied illegally by the respondents.

4. On the other hand, learned counsel for the Bihar Education Project Council submitted that the Bihar Education Project Council is an organization registered under the Society Registration Act presently implementing a time bound programme of universalisation of elementary education called Sarva Shiksha Abhiyan for the last fourteen years. He submitted that the appointment of the deceased employee was on contract basis and there



is no provision for payment of gratuity to a contractual employee under any rules and regulations.

5. I have heard learned counsel for the parties and perused the records.

6. Since the nature of appointment of the deceased employee was contractual and the deceased employee was serving under a particular project of the Society registered under the Societies Registration Act, XXI-1860, in the opinion of this Court, the matter is not required to be adjudicated in exercise of power conferred under Article 226 of the Constitution of India. The remedy of the petitioner lies under the ordinary law, but not under the extraordinary ordinary writ jurisdiction under Article 226 of the Constitution of India.

7. Accordingly, the writ application is disposed of with the aforesaid observations.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.03.2017
Transmission Date	

