

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 17128 of 2008

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Jyoti Kumari, Wife of Sri Ram Kishore Singh, Resident of Village- Pura, P.O.-
Karian, P.S. Hathauri, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Principle Secretary, Department of Human Resources, Government of Bihar, Patna.
3. The Director, Bihar Education Project Council, Beltron Bhawan, Shastri Bhawan, Patna.
4. The District Magistrate, Samastipur.
5. The District Education Officer, Samastipur.
6. The District Superintendent of Education, Samastipur.
7. The Block Development Officer, Shivaji Nagar, Samastipur.
8. The Block Education Extension Officer, Shivaji Nagar, Samastipur.
9. The Headmaster, Kasturba Gandhi Resenditla Balika Vidyalaya, Shivaji Nagar, Samastipur.

.... Respondent/s

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With

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Civil Writ Jurisdiction Case No. 18149 of 2008

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Shashi Prabha Kumari, daughter of Late Karu Choudhary, resident of Village-
Karauta-Doma, P.S. Bakhtiyarpur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Primary Education, Department of Human Recourses, Government of Bihar, Vikash Bhawan, Patna.
3. The District Officer, Patna.
4. The Director, Bihar Education Project Council, Beltron Bhawan, Shastri Nagar, Patna.
5. The Superintendent of Education cum-Co-Ordinator, Bihar Shiksha Pariyojana Parishad, District- Patna.
6. The Block Development Officer, Bakhtiyarpur, District- Patna.
7. The Block Education Extension Officer Bakhtiyarpur, District- Patna.
8. The Secretary, Vidyalaya Shiksha Samiti, Kasturba Gandhi Balika Vidyalaya, Bakhtiyarpur Block, District- Patna.
9. Sulekha Kumari, Wife of Sri Sanjay Kumar Yadvendu, resident of Village- Naya Tola- Madhapur, P.S. Bakhtiyarpur, District- Patna.

.... Respondent/s

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Appearance :

(In CWJC No.17128 of 2008)

For the Petitioner/s : Mr. Amaresh Kumar Sinha, Advocate

For the Respondent/s : Mr. Girijesh Kumar, Advocate

For the State : S.C. 11

(In CWJC No.18149 of 2008)

For the Petitioner/s : Ms. Shashi Prabha Kumari, Advocate



For the Respondent/s : Mr. Girijesh Kumar, Advocate
For the State : Mr. Anil Kumar Verma, A.C. to A.A.G. 9
A.A.G. 4

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 20-02-2018

Heard learned counsel for the petitioners; State and Bihar Education Project.

2. The petitioners were aggrieved by their non continuation on the post of warden-cum-teacher in Kasturba Gandhi Balika Vidyalaya.

3. Learned counsel for the petitioners submitted that pursuant to the advertisement, they were selected for one year contractual period but prior to that, they were removed on the ground that they were appointed on a post which was not approved by the State Government and since then payment has also not been made. It was submitted that the same is illegal as once they have been selected for one year contractual period, they are required to be allowed to work and payment made for such period.

4. Learned counsel for the Bihar Education Project submitted that the writ petition itself is not maintainable as has been held by various Benches of this Court holding that the appointment is part time, temporary and contractual in nature under a scheme of Sarva Shiksha Abhiyan under the centre known as Kasturba Gandhi Balika Vidyalaya and it has further been held that since the nature of



appointment is contractual and as such there is no rule for continuation, the Court is not required to go into the aspect under Article 226 of the Constitution of India and the remedy may lie under common law but not under Article 226 of the Constitution of India. Further, it was submitted that the ground taken is *bona fide* as the petitioners were either not appointed on the approved post, since prior to such engagement, the State Government has approved only appointment of three teachers or the petitioners were appointed without following the guidelines, the same having been noticed has been rectified and they have been asked not to work and payment has also been stopped, which cannot be said to be arbitrary.

5. Having considered the rival contentions the Court finds that the termination/disengagement of the petitioners are based on genuine and valid grounds without being punitive and does not require to be interfered with. Moreover, the same being contractual, as it is ended in the year 2009 and the petitioners became eligible for reapplying, no prejudice has been caused to them.

6. In view thereof, the writ petitions stand dismissed.

(Ahsanuddin Amanullah, J.)

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