

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.668 of 2023

Richa Kumari D/o Late Sunil Kumar, Resident of Mohalla-Maniksarkar,
Ghat, Road, Bangali Tola, P.S.-Adampur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Bhagalpur
2. The Municipal Commissioner, Bhagalpur Municipal Corporation,
3. The Mission Director, Bihar Administrative Mission Society, General Administrative Department, Bihar, Patna.
4. The Principal Secreary, Urban Development and Housing Department, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar Mishra, Advocate
For the State : Mr.Ranjay Kumar Singh, AC to SC-6
For Bhagalpur Municipal Commissioner: Mr. Manish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-03-2023 Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Bhagalpur
Municipal Corporation.

Petitioner in the present case is seeking quashing of
the order dated 20.07.2022 passed by the Municipal
Commissioner, Bhagalpur by which the services of the
petitioner are said to have been returned to the District
Establishment Branch under the authority of the District
Magistrate, Bhagalpur. Consequent upon setting aside of the
impugned order, the petitioner has prayed for a direction to the
respondent no.2 to retain the services of the petitioner under his



authority on the ground that the petitioner has been appointed for Municipal Corporation, Bhagalpur. Further direction has been prayed for payment of arrears of salary to the petitioner at the rate of Rs. 25,238/- per month which is said to be the substantive salary for the post of Executive Assistants.

It is not in dispute that the petitioner was engaged on honourarium basis for looking after the maintenance work of MIS under Swaksh Bharat Mission (Urban) Scheme for Bhagalpur Municipal Corporation. It is also not in dispute that the petitioner was engaged on contract basis with a pre-disclosure that her engagement is purely temporary and only till completion of the work under the scheme, for the scheme period or 60 years of age whichever is earlier.

The impugned order, as contained in Annexure- '5', which has been communicated to the petitioner specifically states that the MIS work under the Swaksh Bharat Mission (Urban) Scheme has come to an end in the year 2019 itself and no work is being taken from the petitioner under Swakh Bharat Mission Scheme. In addition, this letter also states that there has been delay in obtaining allotments from the department which is further creating difficulties in making payment of salary.

Learned counsel for the petitioner submits that the



similarly situated Executive Assistants working in other Municipal Corporations are still continuing, therefore, it would not be correct for the Municipal Corporation, Bhagalpur to say that the work under the Swaksh Bharat Mission Scheme has come to an end in Bhagalpur Municipal Corporation.

Learned counsel further submits that the fact that the department was making allotments for payment of salary/honourarium to the petitioner even after the year 2019 is an indicator of the fact that the work under the Swaksh Bharat Mission Scheme had not come to an end in the Bhagalpur Municipal Corporation and the petitioner was very much working there. Learned counsel also asserts that in other offices the work under the scheme is still being taken.

Learned counsel for the Bhagalpur Municipal Corporation as well as the State have opposed this writ application. While it is the stand of the State that the matter pertains to the Bhagalpur Municipal Corporation and it is for the Municipal Corporation to answer the writ application, learned counsel for the Bhagalpur Municipal Corporation has defended the impugned communication as contained in memo no.1916 dated 20.07.2022 (Annexure- '5'). Learned counsel submits that once the Corporation has come with a stand that the MIS work under the Swaksh Bharat Mission Scheme has come to an end in



Municipal Corporation, Bhagalpur in the year 2019 itself, this Court sitting under Article 226 of the Constitution of India would not expand the scope of the writ so as to examine as to whether the work has come to an end or not. Learned counsel has, however, not explained as to how despite the fact that the work had come to an end in the year 2019, the allotments were being made by the department and received in the Municipal Corporation in the name of the petitioner till September, 2022 as is evident from Annexure- '7' to the writ application.

Having heard learned counsel for the petitioner, the State and the Bhagalpur Municipal Corporation what is evident from the records is that the engagement of the petitioner as Executive Assistant was for Bhagalpur Municipal Corporation on honourarium basis for looking after the maintenance work of MIS under Swaksh Bharat Mission (Urban) Scheme. The petitioner was well aware that her engagement is purely temporary and only for the period the scheme is in vogue. The fact that the Bhagalpur Municipal Corporation has come with a stand that the work of the scheme has already come to an end in the year 2019 would lead to a conclusion that upon completion of the work under the scheme the petitioner cannot compel the Corporation to continue her or to keep on engaging her in the



scheme. Further this Court sitting under Article 226 of the Constitution of India would not go into examining the stand of the Corporation as to whether or not the work of the scheme has come to an end. This is for the competent authority in the department/corporation to look into.

So far as the stand of the petitioner that the payments were being made to the petitioner even after the year 2019 is concerned, under what circumstances and for what purpose those payments were being made to the petitioner may be best examined by the department and the Bhagalpur Municipal Corporation. That, alone would not confer any benefit upon the petitioner so as to find any fault with the impugned order and get a mandamus from this Court to direct the respondent no.2 to continue with the engagement of the petitioner.

In result, this writ application fails. It is dismissed.

(Rajeev Ranjan Prasad, J)

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