

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11124 of 2019

Shobha Devi W/o Umesh Kumar Yadav vill.- Kathbazra, P.s.- Jhajha, distt.-
Jamui

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Principal Secretary Education Department, Govt. of Bihar, Patna
3. The Additional Secretary General Administration Department, Govt. of Bihar, Patna
4. The Director Primary Education, Education Department, Govt. of Bihar, Patna
5. The District Magistrate Jamui, Distt.- Jamui
6. The District Education Officer Jamui, Distt.- Jamui
7. The District Programme Officer Establishment, (Education), Jamui, Distt.- Jamui
8. The Block Development Officer Jhajha, Distt.- Jamui
9. The Block Education Officer Jhajha, Distt.- Jamui

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrityunjay Kumar, Advocate
For the State	:	Mr. Jitendra Kr. Roy 1 (SC-13) Mr. Jai Prabhat Kishore, AC to SC-13

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 24-06-2024 Heard learned counsel for the petitioner and

learned counsel for the State.

2. By the present writ application, the petitioner
seeks following relief(s):-

*(i) For issuance of a writ in the nature of
certiorari or any other appropriate
writ/order/direction to quash the Letter No.
24 dated 08.01.2019 issued by the District
Programme Officer, Establishment
(Education) Jamui to the Block Education*



Officer, Jhajha, District Jamui so far it relates to the petitioner, by which the service books of the petitioner and some other teachers have been returned with reason that the petitioner passed the Intermediate Qualification from Hindi Vidyapeeth, Deoghar, Jharkhand after 33 months from first engagement.

(ii) Further for issuance of a writ in the nature of certiorari or any other appropriate writ/order/direction to quash the office order contained in Memo dated 12.01.2019 issued by the Block Education Officer, Jhajha, District- Jamui, so far it relates to the petitioner by which the salary of petitioner has been stopped.

(iii) Further, for issuance of a writ in the nature of mandamus or any other appropriate writ/order/ direction to the respondents to fix the seventh (VIIth) pay and accordingly pay the differences of arrears of salary to the petitioner.



(iv) Further for issuance of a writ in the nature of mandamus or any other appropriate writ/order/ direction to the respondents to pay the arrears of salary which is withheld since November, 2018 till date and also for payment of current salary on month to month basis.

(v) Further for issuance of a writ in the nature of mandamus or any other appropriate writ/order/ direction to stay the operation of impugned Memo dated 12.01.2019 (Annexure-4) by which there is an order to stop the salary of the petitioner.

(vi) And for any other appropriate writ order/direction for which the petitioner is entitled for in the facts and circumstances of this case.

3. The petitioner was employed as Panchayat Shiksha Mitra on 10.12.2005. As per the provisions of Rule 20 (iii) of the Bihar Panchayat Elementary Teacher (Employment and Service Condition) Rule, 2006, the services of Panchayat Shiksha Mitras like the petitioner was absorbed as Panchayat



Teacher. In the year 2008, a direction was issued for acquiring Intermediate qualification within 33 months of first engagement. The school in which the petitioner has been working since the date of her appointment/employment i.e. 10.12.2005, has been upgraded from Primary School to Middle School in the year 2009 and the petitioner has become Block Teacher. The petitioner has also passed the Teacher Evaluation Examination (TET). She has also passed to two years in-service teacher training course as well as six months Enrichment Programme. The petitioner has been denied the benefit of 7th Pay Commission on the ground that she has passed her Sahitya Bhushan (equivalent to Intermediate) from Hindi Vidyapeeth, Deoghar, Jharkhand in the year 2010 i.e. after more than 33 months from 01.07.2006. The petitioner has relied upon the order dated 14.07.2009 passed in C.W.J.C. No.3700 of 2009, which has been affirmed by L.P.A. No.1247 of 2009, in which this Court has held that seven months later to the date on which she completed 33 months from the date of her initial appointment, cannot be a ground for termination from service. Intention behind fixing time for acquiring enhanced qualification of Intermediate must have been to prove educational qualification and knowledge capacity of Siksha



Mitra, already absorbed on the post of Panchayat Teachers. It is further held that enhancement of qualification was essential for improving standard of teaching in Primary Schools, which is the starting point of educational system and no punitive action should be taken as a weapon to harass Panchayat Shiksha Mitra already absorbed as Teachers.

4. A counter affidavit has been filed on behalf of the State but the fact that the petitioner was absorbed as Block Teacher has not been disputed.

5. Having heard learned counsel for the parties, perusing the materials available on record as well as the order dated 14.07.2009 passed in C.W.J.C. No.3700 of 2009, in my considered opinion, this writ application must succeed. In the result, the letter no.24 dated 08.01.2019, issued by the District Programme Officer, Establishment (Education) Jamui is quashed and the respondents are directed to pay the salary of the petitioner within two months from today.

6. Accordingly, this writ application is allowed.

(Anjani Kumar Sharan, J)

Guddu/-

U			
---	--	--	--

