

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.37 of 2015

Jahida Tabassum Wife of Md. Zahoor Alam Resident of Village - Amari Kukroan, Post - Amari Kukroan, Police Station - Dhamdaha, District - Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar. Patna.
3. The District Magistrate, Purnia.
4. The District Education Officer, Purnia.
5. The Regional Deputy Education Director, Purnia Division, Purnia
6. The District Programme Officer, Literacy, Purnia
7. The Block Education Officer, Bhawanipur Cum Enquiry Officer.
8. The Headmaster, Primary School Bathnaha Tol Madarsa, Block Dhamdaha Purnia.
9. Shahin Pravin Wife of Md. Jasim Ansari Resident of Village - Amari Kukroan, Post Amari Kukroan, Police Station - Dhamdaha, District - Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kumar, Advocate
For the Respondent/s	:	Mr. Naman Nayak, AC to AAG13
For Respondent no. 9	:	Mr. Nawal Kishore Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 30-01-2024 1. Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant application
for the following relief/s :-

“(i) For issuance of an appropriate writ for quashing the order vide letter no. 01 dated 20.11.14 whereby and whereunder the service of the petitioner has been terminated from the post of Talimi Markej as contained in annexure-14 to this writ application.



(ii) For issuance of an appropriate writ commanding the respondents to cancel the appointment to Shahin Pravin (Respondent No. 9) to this writ application.

(iii) For issuance of an appropriate writ commanding the respondents to appoint the petitioner on the post of Talimi Markej with effect from the date of termination.

(iv) For any other relief or reliefs for which the petitioner is entitled under law as well as on facts and circumstances of the said case.”

3. Matter relates to appointment of Talimi Markaz in the district of Purnia.

4. Learned counsel appearing on behalf of respondent no. 9 at the outset, referring to the guidelines for appointment of Talimi Markaz as contained in letter dated 10.1.2013 (Annexure-3) of the District Magistrate, Purnia as also the order dated 30.11.2023 passed in CWJC no. 4475 of 2019 (Annexure- R-9/A) submits that writ applications with respect to dispute relating to appointment of Swayam Sevi Shikshak in Talimi Markaz is not maintainable.

5. In response learned counsel for the petitioner submits that the learned Single Judge in order dated 30.11.2023 passed in CWJC no. 4475 of 2019 (Hasina Begum vs. State of Bihar & Others) has placed reliance on the order passed in



CWJC no. 18107 of 2016 which in turn has placed reliance on order dated 2.2.2017 passed by the learned Division Bench in L.P.A no. 2185 of 2015. Learned counsel for the petitioner relies on the judgment in the case of The State of Assam & Others vs. Kanak Chandra [AIR 1967 SC 884] to submit that it was categorically held therein that a part-time employee cannot be holder of a civil post outside the regularly constituted service is too wide and cannot be supported. The petitioner holding civil post, the writ application is maintainable.

6. Having heard learned counsel for the parties, it may be noted that in judgment dated 2.2.2017 passed in L.P.A no. 2185 of 2015 the Division Bench of this Court held that the selection or engagement or hiring of Tola Sevak is not a permanent appointment under the State which is required to be considered under Article 226 of the Constitution of India and as such dismissed the appeal.

7. The guidelines for appointment of Swayam Sevi Shikshak in Talimi Markaz as contained in letter dated 10.1.2013 of the District Magistrate, Purnia would show that the same relates to appointment of Swayam Sevi Shikshak under a particular scheme.

8. Thus in view of this Court, taking into



consideration the judgment dated 2.2.2017 passed in L.P.A no. 2185 of 2015 as also the order dated 30.11.2023 passed in CWJC no. 4475 of 2019, the instant writ application is not maintainable under Article 226 of the Constitution of India.

9. The writ application is dismissed.

10. The petitioner will be at liberty to pursue and take recourse to such other remedies which may be available to him in accordance with law.

(Partha Sarthy, J)

Harsh/-

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