

## Dr. Reema Saha vs The State Of Tripura on 18 May, 2026

TRHC010019232025

2026:THC:642

HIGH COURT OF TRIPURA  
AGARTALA  
WP(C) No.660 of 2025

Dr. Reema Saha, Age 45 years,  
W/O-Sri Uttam Kumar Debnath,  
R/O- Pragati Road, Krishnanagar,  
P.O.- Agartala, P.S.- West Agartala,  
Agartala, District- West Tripura,  
PIN-799001.

.... Petitioner(s).

Versus

1. The State of Tripura,  
To be represented by the Secretary,  
Department of Industries & Commerce,  
Government of Tripura, New Secretariat Complex,  
Kunjaban, Agartala, West Tripura,  
PIN-799010.
2. The Chairman (Principal Secretary),  
Dept. of Forests,  
Govt. of Tripura, NRMST, Aranya Bhavan,  
Gurkhabasti, Agartala,  
West Tripura, PIN-799006.
3. The Director,  
Directorate of Industries & Commerce,  
Shilpa Udyog Bhavan, Khejurbagan,  
Agartala, Tripura, PIN-799006.
4. The Manager,  
Directorate of Industries & Commerce,  
Shilpa Udyog Bhavan, Khejurbagan, Agartala,  
Tripura, PIN-799006.
5. The CEO & P.D.,  
IGDC, CRFLAT Project,  
PMA, Hatipara, Gandhigram,  
West Tripura, PIN-799012.
6. The Member Secretary,  
Society for Entrepreneurship Development (SOFED),  
ITI Road, Indranagar, Agartala,  
West Tripura, PIN-799006.
7. Shri S. Prabhu,  
CEO & PD, IGDC, CRFLAT Project,  
PMA, Hatipara, Gandhigram,  
West Tripura, PIN-799012.
8. Dr. Biplob Brahma (STO-MIS),  
Posted in the O/o of the CEO & P.D,

IHDC, CRFLAT Project,  
PMA, Hatipara, Gandhipara,  
West Tripura, PIN-799012.

.....Respondent(s).

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For Petitioner(s) : Mr. Purusuttam Roy Barman, Sr. Adv.  
Mr. Kawsik Nath, Adv.  
For Respondent(s) : Mr. Dipankar Sarma, Addl. G.A.  
Date of Hearing : 11.05.2026  
Date of delivery of  
Judgment and Order : 18.05.2026  
Whether fit for  
Reporting : NO

HON BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Heard Learned Senior Counsel, Mr. P. Roy Barman

assisted by Learned Counsel, Mr. K. Nath appearing on behalf of  
the petitioner and also heard Learned Addl. G.A., Mr. D. Sarma  
appearing on behalf of the State-respondents.

02. The petitioner has filed this writ petition seeking the  
following relief/reliefs:-

(i) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to re-appoint/ re-engage the Petitioner in the post of Project Implementing Officer (PIO) for the Indo German Development Corporation Project (CREFLAT) under the Respondents, during the life of Indo German Development Corporation Project (CREFLAT).

(ii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to renew/extend the tenure of the appointment of the Petitioner w.e.f 25.09.2025 to till the regularization of her service or during the life of Indo German Development Corporation Project (CREFLAT), whichever is earlier, as

the Petitioner s engagement is coterminous with the Scheme.

(iii) Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing & cancelling the Recruitment Notification No.05/2025-26, dated 05.11.2025, issued by the Member Secretary, SoFED, so far the post of Project Implementing Officer (PIO) is concerned.

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- (iv) Make the rules absolute.
- (v) Call for records.
- (vi) Pass any further Order/Orders as this Hon ble High Court considered fit and proper.

03. At the time of hearing, Learned Senior Counsel, Mr. P. Roy Barman appearing for the petitioner first of all drawn the attention of the Court [Annexure-1] i.e. the certificate issued by Director, NTFP Centre of Excellence, Tripura JICA Project and submitted considering the performance of the petitioner the Director, JICA had issued said certificate to her.

04. Thereafter, Learned Senior Counsel appearing for the petitioner drawn the attention of the Court referring Annexure-2 and submitted that by the said appointment letter dated 10.02.2021 she was engaged as project Implementing Officer for the Indo-German Development Cooperation Project (CREFLAT) on contract basis for a period of 11 (eleven) months and accordingly the CEO & PD, IGDC CREFLAT Project issued another certificate of accreditation to her [Annexure-3].

05. After that, the period of engagement of the petitioner was further extended w.e.f. 04.12.2024 by the authority

[Annexure-4].

06. It was also submitted by Learned Senior Counsel that the authority of IGDC CREFLAT Project, PMA by Office Order dated 14.05.2025 allocated the job of the petitioner to the respective department [Annexure-5].

07. By another Office Order dated 14.05.2025 the petitioner was assigned the job to monitor the works of 5 (five)

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Sub-Division. But by Office Order dated 28.08.2025 the job of the petitioner assigned to Dr. Biplab Brahma (ST0-MIS) [Annexure-7].

08. Thereafter, most arbitrarily on 25.09.2025 the SOFED extended the period of service of the petitioner w.e.f. 08.09.2025 to 25.09.2025 [Annexure-8].

09. Learned Senior Counsel also drawn the attention of the Court that as per Project Operation Manual in Column No.2.7.2, it was observed that the following guideline has been prescribed:-

"2.7.2. Terms and Conditions of contractual staff or the staff deployed through outsourcing

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Continuity of Project staff until completion of project period would be a very crucial requirement for successful implementation of the project, especially for critical positions like Project Implementation Officer and certain Technical Officers/Technical Assistants. Provisions of certain stage-wise incentives would be made to ensure their retention throughout the entire project period.

Long unauthorized absence during the contract period or indulgence in serious misconduct would render a contractual employee liable for disengagement by the CREFLAT project authority, following principles of natural justice. The expression serious misconduct would mean improper or unprofessional act considered detrimental for the functioning. Whether an act is misconduct or not would be decided by the Appointing Authority whose decision will be final and binding.

In the case of Outsourced employees, if the average cumulative performance score of an outsourced employee falls below Five (5), out of Ten (10), for two consecutive years, the service provider may be asked to provide his/her replacement."

10. Thus, Learned Senior Counsel appearing for the petitioner also drawn the attention of the Court that in discharging duties the petitioner suffered some harassment and for that she submitted representation to the authority of the Department [Annexure-10].

11. But surprisingly the SOFED by recruitment Notification No.05/2025-26 dated 05.11.2025 [Annexure-11] has give an advertisement for filling of the post of Project Implementing Officer (PIO) which compelled the petitioner to file this writ petition.

12. In this regard reliance was placed by Learned Senior Counsel a judgment of Hon'ble Supreme Court of India in Mohd.

Abdul Kadir and Another Vs. Director General of Police, Assam reported in (2009) 6 SCC 611, wherein in Para Nos.5, 6, 10 and 17, Hon'ble the Apex Court observed as under:-

"5. The Inspector General of Police (Border), Assam issued a Circular dated 17-3-1995 laying down the following procedure for appointment/continuation of ex- servicemen as ad hoc border staff:

(i) All appointments shall be for a contract period of one year.

(ii) Termination notice should be issued to every ad hoc employee at least 45 days before the date of expiry of one year from the date of appointment.

(iii) The ad hoc employee, on receiving information regarding termination from service, shall, if he desires to continue, send an application seeking fresh appointment for a further term of one year.

The application should reach the Office of IGB (B), Assam at least 30 days before the date of expiry of one year.

(iv) The DIGP (Range)/Superintendent of Police concerned shall send a performance report and medical certificate in respect of each ad hoc employee to whom such termination notice has been issued at least 30 days before the date of such termination while forwarding the applications for fresh appointment.

(v) The applications for fresh appointment shall be considered with reference to the respective performance report and medical certificate, and those found fit and suitable will be reappointed at least 20 days before the date of expiry of the contract period of one year.

(vi) Such fresh appointment letters shall be issued by the Superintendent of Police (Border), Assam and the ad hoc employees cleared for fresh appointment shall sign an agreement and submit their joining report.

(vii) If application for fresh appointment is not received in due time, it will be taken that the ad hoc employee has not sought fresh appointment and he will not be considered for fresh appointment.

6. Aggrieved by the process of termination and reappointment introduced by the said Circular dated 17-3-1995 and the consequences thereof, Appellants 1 and 2 filed Civil Rules Nos. 2065 and 1698 of 1995 in the Gauhati High Court.

10. A learned Single Judge of the High Court allowed the writ petition by order dated 29-2-1996. He held that the appellants should be allowed to continue as long as the Scheme was continued by the Government of India and they shall be entitled to all service benefits as regular employees so long as the Scheme continued. He also held that the appellants shall be entitled to the benefits extended under the State Government Scheme for enrolment of ex-service personnel in Assam Special Peace Keeping Force, vide Official Memorandum dated 14-6-1984. Feeling aggrieved the Director General of Police, Inspector General of Police (Border) and Superintendent of Police (Border), Assam, filed a writ appeal (WA No. 154 of 1996).

17. When the ad hoc appointment is under a scheme and is in accordance with the selection process prescribed by the scheme, there is no reason why those appointed under the scheme should not be continued as long as the scheme continues. Ad hoc appointments under schemes are normally coterminous with the scheme (subject of course to earlier termination either on medical or disciplinary grounds, or for unsatisfactory service or on attainment of normal age of retirement). Irrespective of the length of their ad hoc service or the scheme, they will not be entitled to regularisation nor to the security of tenure and service benefits available to the regular employees. In this background, particularly in view of the continuing Scheme, the ex-serviceman employed after undergoing the selection process, need not be subjected to the agony, anxiety, humiliation and vicissitudes of annual termination and re-engagement, merely because their appointment is termed as ad hoc appointments."

Referring the same, Learned Senior Counsel drawn the attention of the Court in view of the observation of the Hon'ble Supreme Court in the aforementioned case, there was no scope to discontinue the service of the petitioner.

Reference was placed upon another judgment of the Hon'ble Supreme Court of India in Hargurpratap Singh Vs. State of Punjab and Others reported in (2007) 13 SCC 292, wherein in Para No.3, Hon'ble the Apex Court observed as under:-

"3. We have carefully looked into the judgment of the High Court and other pleadings that have been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till

regular incumbents are appointed. The course adopted by the High Court is to displace one ad hoc arrangement by another ad hoc arrangement which is not at all appropriate for these persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on ad hoc basis. Therefore, we set aside the orders made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We direct that they shall be continued in service till regular appointments are made on minimum of the pay scale. The appeals shall stand allowed in part accordingly."

Further, reference was placed upon another judgment of the Hon'ble Supreme Court of India in U.P. Junior High School Council Instructor Welfare Association v. State of Uttar Pradesh & Ors. along with other connected matters reported in 2026 SCC OnLine SC 147, wherein in para Nos.39 and 44, Hon'ble the Apex Court observed as under:

"39. The part time contractual instructors/teachers appointed in Primary Schools of the State of Uttar Pradesh, in the first place, ceases to be contractual teachers as soon as the contract period of eleven months initially entered into or the renewed period, if any, comes to an end. It is noticed from the counter affidavit that the original contracts were last renewed in 2017-18 and in these renewed contracts the honorarium agreed upon is Rs. 8,470/- per month. There is no renewed contract thereafter. The contract having once expired and not having been renewed specifically and reduced to writing after 2017-18 would not actually be a contract so as to recognize the instructors/teachers so appointed to be contract teachers on the expiry of the above contract. They would rather be treated as teachers simpliciter after 2017-18.

44. The appointment of these instructors/teachers, even if held to be contractual, part time or even temporary in nature, there is hardly any scope to replace these instructors/teachers by a fresh contractual, part time or temporary instructor/teacher inasmuch as these are the persons who are not only qualified but have acquired some experience of working and are definitely more suitable than the freshers. It goes without saying that an ad hoc employee cannot be replaced by another ad hoc employee, a temporary employee cannot be replaced by another temporary employee, a contractual employee cannot be replaced by another contractual employee and the guest employee by another guest employee. The incumbents working as aforesaid are entitled to preference in comparison to the new candidates, unless of course there is anything against them. In fact, practice of engaging employees on ad hoc, temporary, part time, contractual or as guest ought to be avoided and the Government should strictly adhere to proper procedure for regular recruitment."

Referring the same, Learned Senior Counsel submitted that in this case inspite of having requisite qualification the respondents illegally discontinued the job of the petitioner which compelled the

petitioner to approach this Court. So, Learned Senior Counsel urged before the Court to issue appropriate rule in this regard and to allow the writ petition.

13. The respondents have filed separate counter-affidavits denying the assertions of the petitioner. However, the respondent Nos.5, 7 and 8 in their counter-affidavit in Para Nos. 13, 14, 15, 17 and 20 observed as under:-

"13. That, in regard to the statements made in paragraph 6 of the writ petition it is stated that, by appointment letter dated 10.02.2021 issued by SoFED the Petitioner was engaged purely as an outsourced contractual personnel for 11 months for deployment in the IGDC CREFLAT Project. The appointment was neither made by the Respondent no.5 nor did it create any employer-employee relationship with the CEO & PD, IGDC. Her contractual engagement was entirely governed by the terms issued by the outsourcing agency.

14. That, in regards to the statement made in paragraph 7 of the writ Petition it is stated that the Petitioner s joining on 15.02.2021 is a matter of record. However, it is denied that her service has been continuous without issues. In 2022, based on complaints received from members of the Project Management Agency regarding the Petitioner s misbehavior, SoFED granted only a three-month extension beyond the initial 11-month tenure. Subsequently, upon the Petitioner s own request, the then CEO & Project Director of IGDC CREFLAT recommended to SoFED for a further one-year extension. The Petitioner continued only as an outsourced contractual personnel, with no employer- employee relationship with the IGDC CREFLAT project.

15. That, in regards to the statement made in paragraph 8 of the writ Petition it is stated that the certificate dated 16.08.2022 does not create any legal or contractual right in favour of the Petitioner. It is well settled that satisfactory performance or appreciation notes cannot confer entitlement to continuation or renewal of a contractual engagement. The Hon ble Supreme Court in State of Karnataka v. Uma Devi (2006) 4 SCC 1 and in Punjab State Warehousing Corporation v. Manmohan Singh (2007) 9 SCC 337 has held that temporary or contractual employees have no right to extension merely on the basis of past performance. Similarly, in Grideo Ltd. V. Sadananda Doloi (2011) 15 SCC 16 the Hon ble Supreme Court reiterated that fixed-term contractual appointments automatically expire and cannot be continued on the strength of favourable certificates. Hence, the certificate relied upon by the Petitioner is merely a factual acknowledgment and does not create any enforceable right against the Respondents.

17. That, in regards to the statement made in paragraph 10 of the writ Petition, it is stated that the Memorandum dated 04.12.2024 issued by SoFED is a matter of record. It is submitted that the said Memorandum pertains solely to the internal extension of outsourced contractual manpower by the outsourcing agency, and not by

the Respondent No.5. The Petitioner's name appearing at Sl. No.29 with extension from 07.10.2024 to 06.09.2025 reflects only SoFED's administrative decision for continuation of deployment and does not create any employer- employee relationship or service rights against the CEO & Project Director of IGDC CREFLAT or the State. All such extensions remained purely contractual and subject to SoFED's terms and project requirements.

20. That, in regards to the statement made in paragraph 13 of the writ Petition, it is stated that the Respondent denies the allegations of the Petitioner except those which are matters of record. It is submitted that by Office Order dated 28.08.2025, issued by the CEO & Project Director, IGDC-CREFLAT Project, in partial modification of the earlier office order dated 14.05.2024, the duties of the Petitioner as Project Implementing Officer (PIO) were re-assigned to Dr. Biplab Brahma, STO-MIS, with immediate effect. The Petitioner was accordingly directed to hand over all related hard files and e-office files to the said officer.

The Respondent respectfully submits that the CREFLAT Project is an externally aided development programme with clearly defined outputs, outcomes, and strict timelines. The project management authority has the administrative responsibility to ensure that all activities are executed effectively and that the project achieves its mandated results within the approved project period.

However, it became evident from the Petitioner's conduct and performance pattern that she was not discharging her responsibilities with the diligence and regularity required for a senior position such as PIO.

The Petitioner:

did not submit monthly work reports; did not regularly visit the field despite being assigned monitoring duties across multiple sub- divisions;

did not produce activity monitoring reports; and follow up on the regular monthly review meeting by the CEO & PD with the field staffs.

failed to demonstrate measurable progress or deliverables against the ToR.

Such persistent non-performance by an officer holding a key operational position posed a serious risk to the progress of the project. Therefore, in order to ensure continuity of work, timely completion of activities, and achievement of project outputs, the competent authority took a bonafide administrative decision to reassign certain duties to another officer-Dr. Biplab Brahma (STO-MIS)-who possesses equivalent knowledge, experience, and demonstrated capability in project implementation.

This administrative action was taken not against the Petitioner personally, but in the larger interest of the project, to prevent further delay or stagnation. The project authority is under obligation to ensure efficiency and cannot allow critical tasks to remain unattended due to the negligence or non-performance of any individual Project Management Agency Member. Accordingly, the reassignment of duties under the office order dated 28.08.2025 was a necessary and justified decision taken in good faith to safeguard the objectives of the externally aided project.

In view of the above, the Respondent submits that Annexure-7 does not advance the Petitioner's case, and the administrative order was issued wholly in accordance with project requirements and managerial prudence."

14. Learned Addl. G.A., Mr. D. Sarma appearing for the respondents submitted that the performance of the petitioner was not at all satisfactory and there were lot of allegations against her and referring Annexure-R/4 drawn the attention of the Court that she polluted the environment at the time of discharging her job.

Learned Addl. G.A. also submitted allegation which has been duly inquired by the authority but the allegation found to be baseless and since her job was for a certain period contractual employment so there was no scope to continue her job and referring the citations referred by Learned Senior Counsel for the petitioner, Learned Addl. G.A. submitted that those citations are not applicable in this case because those were relating to regular employees and ad-hoc employees and referring those judgments the petitioner cannot take advantage in this case and urged for dismissal of this writ petition as she has failed to satisfy the Court by showing any materials on record for interference.

15. Heard both the sides.

It is not the case of the petitioner that due to misconduct or misbehavior her service has been discontinued rather it was the case of the petitioner that inspite of having requisite qualification the respondents authority discontinued her job.

16. Admittedly, the petitioner was engaged by SOFED and she was initially engaged for a period of 11 (eleven) months which was extended on difference interference. The petitioner relied upon some accreditation by the superior authority.

17. However, by Memorandum dated 25.09.2025 her period was extended w.e.f. 08.09.2025 to 25.09.2025 which she has challenged in this writ petition although no reason was assigned. It was further submitted that the respondents authority proceed for further recruitment by issuing another notification dated 05.11.2025 [Anexure-11] which also has been challenged in this writ petition. Now, it is to be seen, whether the petitioner being a contractual employee can claim for regularization and whether this Court can direct the respondents authority to absorb the petitioner.

18. Hon'ble the Supreme Court of India in a judgment the Municipal Council represented by The Municipal Council, Rep.

by its Commissioner Nandyal Municipality, Kurnool District, A.P. Vs. K. Jayaram and Others Etc. Etc. in Special Leave Petition (Civil) Nos.17711-17713 of 2019, wherein in Para Nos.3, 4, 7, 8, 10,11, Hon'ble the Apex Court observed as under:-

"3. The appellant had engaged the respondents not directly, but through a third-party contractor starting from the year 1994. However, upon the change of contractors also, they continued to perform their duties and work for the appellant. They approached the A.P. Administrative Tribunal, Hyderabad seeking regularization and for payment of the minimum of the scale of that post which was given to the regular employees. The Tribunal ruled against them and they approached the High Court. The High Court vide the impugned order has reversed the order of the Tribunal and has directed the appellant in the terms as indicated above.

4. Learned counsel for the appellant submitted that the High Court has failed to consider the basic issue involved in the present case, which is that the respondents were never the direct employees of the appellant, inasmuch as, there was no such relationship created by the appellant. The only connection which the appellant had with the respondents is that the contractor who had been given the contract of providing manpower to the appellant had engaged them and on that basis they were assigned various works to be performed by the appellant, for which, payment was made directly to the contractor and the contractor in turn used to pay to the respondents. It was submitted that the contract was given with sufficient safeguards regarding the basic rights of an employee, inasmuch as, it was stipulated that the payment should not be below the minimum wages prescribed by the Government from time to time and further, that statutory deductions/contributions would be made by the contractor with regard to such employees, including the respondents. Thus, it was contended that since the respondents were faceless before the appellant, any claim by such persons, i.e., the respondents, would only lie against the contractor but definitely not against the appellant. In support of her contention, learned counsel referred to and relied upon a decision of this Court in "Bharat Heavy Electricals Limited vs. Mahendra Prasad Jakhmola and others (2019) 13 SCC 82, the relevant being at paragraphs no. 21, 22 and 24. She also relied upon a judgment of a Bench of this Court, to which, one of us (Ahsanuddin Amanullah, J.) was a party, dated 17.09.2025 in Civil Appeal No.4014 of 2025, titled „Joint Secretary, Central Board of Secondary Education and Another Vs. Raj Kumar Mishra and Another , the relevant being at paragraphs No.6 & 9.

7. Having considered the matter, we find substance in the contention of learned counsel for the appellant. The moot point on which the issue revolves is the nature of employment/ relationship of the appellant with the respondents. It is not in dispute that the appellant had engaged the respondents and other similarly situated persons

through a contractor, which also had changed periodically. However, at the same time, the respondents may have continued to work for the appellant, though through some other contractor. Further, the respondents may have also continued for long periods. Thus, at first blush the reasoning may seem to be attractive that there was discrimination as they were also performing the duties as was being performed by other regular employees and were required to be suitably paid and, at least, the minimum time scale of the pay attached to the regular post, however, a deeper probe would reveal that the matter cannot be dealt with in such a simplistic way. The test which would actually throw light and would be relevant in the facts and circumstances of the present case is to whether the relationship, which is direct between two parties in whatever manner, can be differentiated with a relationship which had no direct connection with the two parties who are contesting, but rather the relationship is through a third-party which in the present case is the contractor.

8. From the facts discussed above, it is clear that the appellant had no direct connection with the actual persons who were employed by the contractor, i.e., the respondents. The obligation and responsibility of the appellant was to pay to the contractor the amount which had been contracted and agreed to between the appellant and the contractor, and the responsibility then was that of the contractor to ensure payment of wages and other emoluments as per the terms of the contract to the persons who were actually sent by the contractor to the appellant for performing various types of job.

10. In view of the discussions made hereinabove and for the reasons aforesaid, the appeals are allowed. The impugned order dated 23.08.2018 passed by the High Court is set aside and the orders of the Tribunal stand restored.

11. Having passed the order, we feel that sometimes justice is required to be tempered with mercy as human factors cannot be totally lost sight of. In such view of the matter, we would require the appellant to look into whether the jobs which were being done by the respondents, in the background that they have not been disengaged or returned to the contractor on the ground of being unsatisfactory, having uninterrupted service under the appellant for decades can be regularized on posts, which prima facie appears to be perpetual in nature. We make it clear that this direction is limited for the purposes of the present case only as it has been passed in the special facts and circumstances of the present case and shall not be treated as a precedent in any other case. We expect the appellant to take a compassionate and sympathetic view in the matter."

19. Similarly, in another judgment in Sunil Kumar Yadav and Others Vs. State of Jharkhand and Others reported in 2026 SCC OnLine SC 818 wherein in Para Nos. 7, 8.1, 8.2, 13, 17, 19, 20, 21 and 23, Hon'ble the Apex Court observed as under:-

"7. The Respondents, in unison, resisted the Writ Prayers. The gist of the case of the Respondents is stated thus:

- Para-teachers were initially engaged as education volunteers (Sahyogi Shikshak) on a fixed honorarium under community school schemes. These centres were later subsumed into the centrally sponsored SSA. The para- teachers were engaged by local School Management Committees and the Village Education Committees, but not by district authorities. Their honorarium was paid from SSA funds provided by the Government of India and the State of Jharkhand in a 60:40 ratio. Following the Girinath Singh Committee's recommendation, the State of Jharkhand amended its recruitment rules in 2009 to provide a 50 per cent reservation for eligible para-teachers in direct appointments to regular teacher posts. Furthermore, para-teachers have been granted a relaxation of the upper age limit to 50 years. Under Article 309 of the Constitution of India, the framing of recruitment policies and the identification of sources of appointment are strictly matters of State policy.
- The para-teachers terms of engagement stated that the appointment was purely contractual and co-terminus with the SSA. This engagement does not confer any right to absorption, permanency, or parity with government teachers.
- The Appellants are not being denied the opportunity to become regular Assistant Teachers. The 2012 Rules, as amended in 2014, already provide a specific 50 per cent quota for the direct recruitment of TET-qualified para teachers with two or more years' experience. • The remaining 50 per cent of the quota under the 2012 Rules is strictly reserved for unemployed candidates in the open market. The Appellants, relying on their subsequent TET qualifications and years of service, are essentially seeking accommodation within the 50 per cent open market quota. Regularising them against this quota would consume the seats reserved for open-market candidates, thereby violating the statutory balance and the rights guaranteed under Articles 14 and 16 of the Constitution of India.
- The framing of recruitment rules, service conditions, and the actual hiring of teachers is entirely the jurisdiction and prerogative of the State Government/Union Territories' Administrations. The Government of India has no role in the policy of service conditions of para-teachers engaged by the States.
- The TET is strictly an eligibility-qualifying test, not a teacher recruitment test that guarantees employment.
- Teacher recruitment is the prerogative of the State Government, and the Government of India submits that it has no role in it.
- The SSA or similarly designated schemes are an additional support program for States and Union Territories, and there are no plans to close them.

- The schemes support the States in hiring additional teachers to maintain the mandated pupil-teacher ratio in the schools.

Simultaneously, the Union of India restricts its role to providing funds to meet the proportionate salary requirements of these para teachers in accordance with the norms of the Samagra Shiksha Scheme.

- While systemic issues such as vacancies, poor teacher-student ratios, and single-teacher schools are real, the legal and administrative responsibility to address them and to determine the employment fate of the para-

teachers lies squarely with the State of Jharkhand.

8.1 The High Court held that since the writ petitioners voluntarily accepted appointments on a contractual/engagement basis as para teachers under the SSA scheme, they cannot later claim regularization as a matter of right. It reasoned that by accepting contractual employment, the Writ Petitioners acquiesced in the terms of their engagement, which did not, by itself, confer any right of absorption or regularisation of services as Assistant Teachers. 8.2 Para-teachers were not selected through a process comparable to the competitive selection process prescribed for Assistant Teachers, and therefore, regularisation is not permissible. It is stated that Village Education/Local School Management Committees have appointed the para-teachers, not the District Authorities.

13. The State of Jharkhand asserts that the employment of para teachers in SSA could, at best, be a temporary arrangement. The Union of India has stated that it is for the respective State Governments to make policy decisions regarding para-teachers services. The policy, now implemented for recruitment or regularisation, conforms to the constitutional mandate under Articles 14, 16 and 309 of the Constitution of India. In furtherance of the policy decision of the State, a slew of statutory frameworks is put in place, which includes the following:

- Community Teacher Service Condition Rules, 2008 • Jharkhand Primary School Recruitment Rules, 2012 • Jharkhand Regularisation of Rules, 2015 • Jharkhand Assistant Teacher Service Conditions Rules, 2021 • Jharkhand Elementary School Sahayak Acharya Cadre (Appointment, Promotion and Service Conditions) Rules, 2022
- The prayer for the regularisation of para-teachers as Assistant Teachers or Sahayak Acharyas does not conform to the constitutional mandate. Any direction for blanket regularisation would be contrary to this Court's binding precedents. The subsequent line of decisions in which this Court issued directions for regularisation are case-specific and are distinguishable on one or more key parameters.

17. The High Court, on the mode of appointment of Appellants, held that the posts occupied by them were not sanctioned posts under the State of Jharkhand's establishment but were posts sanctioned under the SSA scheme, a Centrally Sponsored Scheme funded jointly by the Union and the State. Accordingly, it is an admitted case that the Appellants are not appointed against sanctioned posts; rather,

they are contractual engagees under a scheme. Once an appointee is appointed under a scheme, there is no question of considering them to be appointed against sanctioned posts.

19. The prayer for regularisation is a prayer for direct absorption from a scheme post of para-teachers to a State cadre post of Assistant Teacher/Sahayak Acharya. This would change the character of the appointment. A scheme post under the SSA is jointly funded by the Union of India and the State of Jharkhand, is governed by the SSA guidelines, and continues until the scheme ceases to exist. A cadre post under the State of Jharkhand is governed by Article 309 of the Constitution of India, which creates public employment, and the State must follow a constitutionally aligned recruitment process. The direct leap from one to the other, bypassing the statutory rules, would create a new mode of recruitment not sanctioned by law. This is prohibited by Umadevi(supra) and the line of precedents. In an attempt to cure the purported irregularity in appointment, if para-teachers are regularised under Articles 226 or 142, it would change the source of appointment altogether.

20. On the issue of equal pay for equal work, we note that it is not an automatic entitlement, but rather, the claimant must demonstrate that their duties, responsibilities, qualifications, accountability and conditions of service are qualitatively identical to those of regular employees. Para-teachers, though they perform similar classroom functions, are not assigned the full range of responsibilities of an Assistant Teacher. Further, the UP Junior High School case (supra) directed pay parity under Rule 20(3) of the RTE Rules for scheme teachers who are prohibited from other employment. In the instant case, the teachers claim pay parity with Assistant Teachers, which is inherently distinct from a revision of the honorarium.

21. In the Additional Affidavit filed by the State, it is brought on record that, in the recruitment of Assistant Teachers held in the year 2023, 1637 para-teachers were appointed after successfully participating in the extant appointment process for Assistant Teachers.

The ratio laid down in the above judgments notes that the direction for regularisation cannot be contrary to the statutory rules made by the competent authority. The para-teachers, assuming that they have been appointed under the scheme, make a prayer for regularisation, which takes them into the service of the State Government. For the said purpose, adherence to Statutory Rules must be insisted upon. In the extant case, the State, in furtherance of its policy, has framed rules and kept in perspective the principles laid down in Umadevi(supra). We are of the view that the claim of para-teachers for regularisation does not rest on sound legal and constitutional principles. But, the statutory scheme made by the State has recognised a right of participation and consideration of the claims of para-teachers, subject to the respective statutory framework. This Court is conscious of a diabolical situation in the category of the then para-teachers, namely those who participated in the selection process, on being meritorious, are appointed by the State Government, and the

para-teachers who could not be meritorious would be appointed through a mandamus for regularisation of their services as Assistant Teachers. In the circumstances of the case and having regard to the statutory rules in force, the prayer for a blanket direction for regularisation as an Assistant Teacher or Sahayak Acharya would be contrary to the binding precedent in Umadevi(supra). The para-teachers, in fact, have a right to participation and consideration under the extant rules, but do not have a right to regularisation. The argument of para- teachers is that the State has hardly issued any notifications over the past ten to fifteen years, and the delay in issuing notifications for available vacancies would defeat the rights of para teachers. The comparison of similarities of duties, etc., is to be subjected to the statutory framework and may not ripen into an absolute right for regularisation of the services as prayed for. The above discussion leads to the next point for consideration, whether the para teachers are entitled to a timely recruitment and selection process under the extant procedure. 21.1 Umadevi(supra) does two things: (i) it bars blanket regularisation by mandamus contrary to statutory rules; and (ii) in Para 53, it carves a one-time exception for irregularly appointed employees working against sanctioned posts for over 10 years, directing the executive to frame a regularisation scheme. The directions in the following paragraphs implement the ratio of Umadevi(supra) by directing the State to periodically implement its own statutory mechanism. We do not wish to create a right to regularisation, but rather to ensure that the State carries out its self- imposed statutory obligation by appointing para- teachers to regular posts.

23. The complete answer to the enduring swing of judicial consideration between irregular and illegal appointments is resolved by Umadevi(supra). It is noted that the distinction between illegal and irregular appointments determines the relief available to a party. In the case on hand, we find it unnecessary to determine whether the initial entry of the para- teachers into service under the SSA was irregular or illegal, and we expressly decline to do so for the following reason: the question has been rendered academic by the State's own legislative conduct. By setting aside 50 per cent of all marked vacancies for Assistant Teachers/Sahayak Acharyas exclusively for para-teachers under both the 2012 Rules and the 2022 Rules, the State of Jharkhand has itself recognized para-teachers as a distinct and legitimate class, possessing a right to participation and consideration for regular cadre appointments. To ensure security of employment to the para-teachers and simultaneously give full effect to the statutory rules made under Article 309 of the Constitution of India, we find it appropriate to mould the relief by directing the State to activate, implement, and periodically honour the very statutory mechanism it has itself created."

20. From the aforesaid judgments, it appears that contractual based employees have no automatic right for regularization absorption permanency of pay parity, only they have a right to participate and be considered under the applicable statutory recruitment rules participate in the process.

21. It was further observed that an outsourced worker cannot claim the status of regular employee and regularization or equal service benefits against the Government body unless direct employment or sham contract is proved.

22. Here in the case at hand, the petitioner was initially engaged on contractual basis for a period of 11 (eleven) months by SOFED an outsourced agency w.e.f. 10.02.2021 and thereafter her service was

extended time to time and finally it was extended up to 25.09.2025. In the meantime, the said agency gave further advertisement for appointment of persons against the said post along with other posts.

23. However, at the time of hearing, Learned Senior Counsel for the petitioner although referred some citations but could not place any material before the Court to justify that there was no such scope on the part of the outsourced agency i.e. SOFED to discontinue the service of the present petitioner because the appointment of the petitioner was purely contractual.

Furthermore, from the counter-affidavit submitted by the respondents it appears that her performance was not at all satisfactory although the respondents engaged her till 25.09.2025.

Thereafter, advertisement was issued for fresh engagement. As such I do not find any irregularity or illegality in the proceedings of the respondents authority. Since the petitioner has failed to satisfy the Court by showing any extent rule so, that appropriate direction may be given to the respondents to absorb the petitioner to the post which she was possessing prior to her discontinuance, as such in the considered opinion of this Court the present petitioner is not entitled to get any relief. The citations as already stated cannot be applied in this case.

24. In the result, the writ petition filed by the petitioner is found to be bereft of merit.

This writ petition accordingly stands dismissed.

Interim order passed earlier, if any, thus stands vacated.

Pending application(s), if any, also stands disposed of.

JUDGE

Amrita

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AMRITA DEB

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