

(2017) 12 PAT CK 0025
In the Patna High Court
Case No : 3655 of 2016

Md. Aftab Alam

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 12-12-2017

Acts Referred:

Citation : (2017) 12 PAT CK 0025

Hon'ble Judges : Ahsanuddin Amanullah

Bench : SINGLE BENCH

Advocate : Pramod Kumar Sinha, ?Arvind Kumar Sharma, ?Chetan Kumar, ?S. Rahman, ?Girijesh Kumar

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner; State and respondent no. 3.
2. The petitioner has moved the Court for a direction to the respondents, particularly, respondent no. 8, to allow him to work as Swyam Sevak in the Talimi Markaz being run at Urdu Primary School, Pipra Devas, Barauni.
3. Learned counsel for the petitioner submitted that pursuant to the due selection of the petitioner, he started working from January, 2010 and initially he was paid till against August, 2010 and thereafter, he made a complaint to the President and Secretary of Talimi Markaz on 29.09.2010, against the threat given by the Headmaster asking to share the salary. Thereafter, the petitioner was prevented from working as the Talimi Markaz itself

was closed from 17.09.2012. It was submitted that till that time, the petitioner was paid the honorarium. It was further submitted that the respondent no. 8 had no authority to close the Talimi Markaz as it was the scheme of the State Government, which provides fund for the said project.

4. By earlier order, the Court had directed the District Magistrate, Begusarai to conduct an enquiry and submit a report. From the report it transpires that there are allegations and counter allegations. From the pleadings on record one thing is clear, that, though the Headmaster of the school is alleged to have written to the authorities with regard to the petitioner not coming for work in July, 2012 alleging that the petitioner had stopped coming to the Talimi Markaz since October, 2011, but there is no rebuttal or denial to the fact that the petitioner was paid till 07.11.2012 which has come in the report of the District Magistrate based on verification of the records.

5. Having considered the aforesaid, it appears to the Court that the stand taken by the petitioner is clearly more plausible and is based on contemporary documents and facts i.e., he initially made a complaint in the year 2010 itself and thereafter in 2012 and has finally moved the Court, whereas the sole document available to the Headmaster is his letter of July, 2012, but the same is completely falsified by the fact that it states about the petitioner not coming to the Talimi Markaz since October, 2011 whereas the District Magistrate in his report has given a finding, based on the records, that the petitioner was paid till 07.11.2012. This completely washes away the stand of the Headmaster and furthermore, it is difficult to believe that when a person, who is out of employment is engaged, maybe on honorarium, he would not attend and even loose that money. As, till date, there is no case of the respondents that the

petitioner has been disengaged or his selection has been withdrawn, the Court is left with no option but to direct the authorities concerned to ensure that the petitioner is allowed to perform the duties of Swyam Sevak in the Talimi Markaz in the school in question without any undue let or hindrance. The respondent no. 8 in particular is directed to ensure that the petitioner is allowed to work in the Talimi Markaz of the school for which he shall also be entitled to honorarium.

6. The writ petition stands allowed in the aforementioned terms.