

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3545 of 2019

1. Rajesh Sardar Son of Shiv Lal Sardar, resident of Village and P.O. Gidha, P.S. Singheshwar, District- Madhepura.
2. Arun Rishideo, Son of Late Sagar Rishideo, resident of Village Dhurgaon, Tola Jagir, P.O.- Dhurgaon, P.S. and District- Madhepura.
3. Sandip Kumar, Son of Mahabir Sardar, resident of Village Champanagar Gidha, P.O. Gidha, P.S. Shankarpur, District- Madhepura.
4. Sunil Kumar, Son of Yogendra Ram, Resident of Village and P.O. Kolhua, P.S. Shankarpur, District- Madhepura.
5. Punam Kumari, Wife of Mukesh Kumar Sardar, resident of Village Nayagaon Moura, P.O. Moura Kabiya, P.S. Shankarpur, District- Madhepura.
6. Sadanand Rishideo, Son of Meghu Rishideo, resident of Village Ganesh Ashthan, P.O. Bhagwanpur, P.S. and District- Madhepura.
7. Punam Devi, Wife of Birendra Ram @ Birendra Kumar, resident of Village and P.O. Dhurgaon, P.S. and District- Madhepura.
8. Ranjan Kumar, Son of Akhilesh Sada, resident of Village Chakla P.O. Shripur, P.S. and District- Madhepura.
9. Sunita Devi, Wife of Satendra Sardar, resident of Village Nayagaon Moura, P.O. Moura Kabiya, P.S. Shankarpur, District- Madhepura.
10. Sanjay Rishideo, Son of Thakur Rishideo, resident of Village Madhuban, P.O. Turkari, P.S. and District- Madhepura.
11. Manoj Kumar Ram, Son of Ramesh Ram, resident of Village Sahugarh, P.O. Diwanitola, P.S. and District- Madhepura.
12. Ranjit Sada, Son of Gopal Sada, resident of Village- Bagbiyani P.O. Kolhua, P.S.- Shankarpur, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector-cum-District Magistrate, Madhepura.
3. The Director, JAN SHIKSHA, Department of Education, Bihar, Patna.
4. District Programme Officer (SHAKH CHHARTA) Madhepura, District- Madhepura.
5. District Education Officer, Madhepura.
6. Block Education Officer, Shankarpur District- Madhepura.
7. Block Education Officer, Kumarkhand, District- Madhepura.
8. Block Education Officer, Madhepura Sadar Anchal, District- Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Niwas Prasad
For the Respondent/s	:	Smt. Binita Singh (SC-28)



CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 02-11-2023

1. Heard learned counsel for the parties concerned.

2. The petitioners have filed the present writ application for quashing of order, dated 23.10.2018, bearing Memo D. B. No. 238, passed by learned District Magistrate, Madhepura by which the claim of the petitioners that they were appointed Tola Sewak has been rejected.

3. The Tola Sewak is appointed under the scheme on contract basis for one year. The post of Tola Sewak is not statutory and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court in a similar matter of Tola Sewak in CWJC No. 18107 of 2016 has held as follows:-

"The learned counsel for the respondents has raised a preliminary objection regarding maintainability of the present writ petition and has referred to a judgment, dated 17.08.2015, passed by a coordinate Bench of this Court in CWJC No.12390 of 2015 as well as to a judgment dated 02.02.2017 rendered by the learned Division Bench of this Court in L.P.A. No. 2185 of 2015 whereby and whereunder it has been held that since the selection or engagement or hiring of the Tola Sevak is not a permanent appointment under the State, which is required to be



considered under Article 226 of the Constitution of India as well as since the post of Tola Sevak is under a scheme, the same does not create any statutory right in favour of the petitioner, hence writ petitions in such matters as that of Tola Sevaks are not maintainable. Having regard to the aforesaid judgments rendered by a coordinate Bench of this Court as also by the learned Division Bench of this Court, this Court is of the opinion that the present writ petition is not maintainable, hence the same is dismissed. However, liberty is granted to the petitioner to take recourse to such other remedies as are available under the law."

5. The order passed by Co-ordinate Bench presided over by Hon'ble Single Judge in the aforesaid writ application has been affirmed by Division Bench holding that writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of this Court and the fact that Tola Sewak does not hold civil post as well as the same is not a statutory post, I also come to the conclusion the writ application is not maintainable.

7. This application is, according, dismissed.

(Anil Kumar Sinha, J)

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