

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5382 of 2019

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Shakila Khatoon @ Sakila Khatoon Wife of Guddu Parvej Resident of Village- Kaithauliya, Police Station- Mairwa, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The District Magistrate, Siwan.
3. The District Programme Officer, Siwan.
4. The Sub Divisional Officer, Siwan.
5. The Block Development Officer, Mairwa, District- Siwan.
6. The Block Education Officer, District- Siwan.
7. The Head Master, Motilal Harizan Utkramit Madhya Vidyalaya (B.S.S. Kaithawali), Kaithawali, P.S. Mairwa, Distt. Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh
For the Respondent/s : Mr.Madan Jeet Kumar (Gp 20)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 08-12-2023 1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application
- for the following reliefs:-

(I) To issue a writ in the nature of Certiorari to quash the Memo No. 118 dated 14.07.2015 and Memo No. 167 dated 18.09.2015 passed by the learned District Programme Officer, Siwan by which the learned D.P.O. Siwan has denied the proposal and decision of Selection Committee for the selection and appointment of petitioner on the post of Talimi Markaj Swang Sewak held on 18.09.2014.

(II) To issue a writ in the nature of Mandamus to direct the respondents to issue



appointment letter in terms of the decision dated 18.09.2014 of Selection Committee and also to make payment of honorarium thereto.

(III) To hold and declare that the selection of petitioner held in accordance with Guideline formulated by the State Authority.

(IV) To restrain the respondents from harassing the petitioner.”

3. The Shikshak Swayam Sevi is appointed under the scheme on contract basis for one year as was done in the case of Tola Sewak and the post of Shikshak Swayam Sevi is not statutory and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court in the matter of Tola Sevak 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 Co-ordinate 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 where under it has been held that since 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 Co-ordinate 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 of this Court holding that writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of this Court and the fact that Shikshak Swayam Sevi 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 accordingly dismissed.

(Anil Kumar Sinha, J)

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