

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6667 of 2015

Sanjay Kumar Prasad Son of Rameshwar Baitha. Resident of village - Sabaithwa, P.S.- Kangli, P.O.- Sughan Bhawanipur, District - West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Collector, West Champaran, Bettiah.
3. The District Education Officer, West Champaran, Bettiah.
4. The District Programme Officer, Prathmik Shiksha Madhyamik Shiksha, Sarv Shiksha Abhiyan Awam Sakch
5. The Block Education Extension Officer, Sikta, West Champaran.
6. The Head Master, Rajkiya Utkramik Middle School, Sabaithwa, Sikta, West Champaran.
7. Dinesh Baitha. Son of Deo Nath Baitha. Resident of village - Sabaithwa, P.O.- Sughan Bhawanipur, P.S.- Kangli, District - West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nesar Ahmad Mr. Vivekanand Vivek
For the State	:	Mr. Aditya Nath Jha, AC to SC 18
For respondent no. 7	:	Mr. Rakesh Kumar Ranjan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 06-04-2023 Heard learned Counsel for the parties concerned.

The petitioner is seeking appointment as Tola Sewak after setting aside the merit list. The Tola Sewk 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.

A coordinate Bench of this Court, in the 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 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 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.”

The order passed by the co-ordinate Bench presided



over by Hon'ble Single Judge in the aforesaid writ application has been affirmed by a Division Bench of this Court, holding that the writ petition is not maintainable.

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 that the writ application is not maintainable.

This application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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