

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5918 of 2020

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Brij Mohan Ram Son of Munna Ram Resident of Village Bagen, P.O. Bagen,
P.S. Bagen Gola, District-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna..
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director (Jan Siksha), Bihar, Patna.
4. The District Magistrate, Buxar.
5. The District Programme Officer, Buxar.
6. The District Karyakaram Samanvayak, Buxar..
7. The District Education Officer, Buxar.
8. The Block Education Officer, Brahmpur, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyapal Singh, Adv.
For the Respondent/s : Mr. Madanjeet Kumar (Gp20)

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

4 11-12-2024 It is the case of the petitioner that the petitioner was appointed as Tola Sevak on the basis of a meeting dated 18th February, 2011. Annexure-6 is the letter of appointment issued by the Chairman, Gao/Tola Samiti.

2. It is pertinent to mention here that the duty of Tola Sevak is to collect children and family members of Extremely Backward Classes from a Mohalla/Tola and to bring them to the local School. The said post was created under the Scheme of



“Serv Shiksha Abhiyan”.

3. It is the grievance of the petitioner that in spite of performance of his duties, he was not paid any salary or other emoluments. So, he moved this Court under the Constitutional jurisdiction by filing C.W.J.C. No. 139 of 2016. The said writ petition was disposed of vide order dated 11th December, 2017 with a direction to respondent no. 5 to ensure that the representation filed by the petitioner, which has been forwarded by the respondent no. 3, under Memo No. 1127, dated 22nd June, 2015 be disposed of by passing a reasoned order within two weeks from the date of production of a copy of the order before him.

4. The District Programme Officer, Buxar, respondent no. 5, disposed of the representation of the petitioner holding, inter alia, that the petitioner did not perform any work of Sarv Shiksha Abhiyan. Moreover, he does not have the requisite qualification and training for his appointment as Tola Sevak, so the said representation was rejected. Now the order of rejection dated 31st January, 2019 is under challenge before this Court.

5. In order to show that petitioner had been working still as Tola Sevak, a Survey Report has been filed (Annexure-7). On perusal of which, it appears that the petitioner made a



survey of the villagers, who were required to impart education under Serv Shiksha Abhiyan. The said Survey Report dated 16th October, 2014 was countersigned by the Headmaster of Middle School, Bagen, Buxar. Except the said document, the petitioner has not filed any other document in support of his contention that he has been consistently working as Tola Sevak since the date of his appointment till date.

6. On the other hand, it is submitted by the learned Advocate for the petitioner that the petitioner's service was absolutely contractual in nature and after 16th October, 2014, he was not entrusted with any work by the Headmaster of the said School.

7. If a contractual employee does not get any work by his employer, he is not entitled to get contractual salary. Merely, on the basis of an appointment letter, contractual appointee does not get any right to claim his service. Moreover, the post of Tola Sevak is not a civil post.

8. In view of such circumstances, this court finds that the instant writ petition is not maintainable.

9. Accordingly, the instant writ petition is dismissed on contest.

10. However, there shall be no order as to costs.



11. The petitioner is at liberty to claim for damages in
the appropriate Court, if so advised.

(Bibek Chaudhuri, J)

pravinkumar/-

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