

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5413 of 2024**

Khushboo Nesha wife of Khushbuddin Ali, Resident of village-Khaira Asha,  
P.O- Pyarepur, P.S.- Baikunthpur, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary Government of Bihar, Patna.
2. The Additional Chief Secretary, Human Resources Development Department, Government of Bihar, Bihar
3. The Secretary, Human Resources Development Department, Government of Bihar, Patna.
4. The Deputy Development Commissioner, District- Gopalganj
5. The District Magistrate, Gopalganj, District- Gopalganj
6. The Sub-Divisional Magistrate, Gopalganj, District- Gopalganj
7. The Block Education Officer, Anchal-Baikunthpur, District- Gopalganj
8. The District Education Officer, Gopalganj, District-Gopalganj
9. The District Programme Officer (Establishment), District- Gopalganj.
10. The District Programme Officer Madhyamik Siksha and Saksharta, Gopalganj, District- Gopalganj
11. The Selection Committee Utkramit Madhya Vidyalaya, Asha Khera, Baikunthpur, Gopalganj through its Member Secretary
12. The Head Master Cum Member Secretary, Selection Committee, Utkramit Madhya Vidyalaya, Asha Khera, Baikunthpur, Gopalganj
13. Shaera Begum, Ward-Member of Ward No. 8, Block- Pyarepur, Baikunthpur, District-Gopalganj
14. Allauddin Ansari, Ward-Member of Ward No. 9 Block- Pyarepur, Baikunthpur, District-Gopalganj
15. Chand Tara wife of Md Salauddin, resident of village-Khaira Asha, P.O- Pyarepur, P.S.- Baikunthpur, District- Gopalganj
16. Md Sakhauddin son of Md Shahabuddin, Resident of village-Khaira Asha, P.O- Pyarepur, P.S.- Baikunthpur, District- Gopalganj

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Rananjay Kumar , Advocate  
For the Respondent/s : Mr. Government Pleader 27

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH**  
**ORAL ORDER**

3      28-11-2024

Heard learned counsel for the petitioner and



learned counsel for the respondents.

2. This writ application has been filed for the following reliefs:

*“(A) To direct the respondent/s to select and appoint the petitioner on to the post of Tola Siksha Sevi/ Siksha Swayam Sewak (Talimi Markaz) in Utkramit Madhya Vidyalaya, Asha Khera, Baikunthpur, Gopalganj who had applied for the post and fulfilled all the eligible criteria but private respondent No- 15 & 16 namely Chand Tara having 66.3% marks and Md Sakhauddin having 62.20% marks respectively has been selected ignoring the candidature of petitioner who is/was having 67% marks has been ignored and thrown out of the Final Selection/ Merit List by hatching a conspiracy by Selection Committee in Utkramit Madhya Vidyalaya, Asha Khera, Baikunthpur, Gopalganj in connivance other respondents.*

*(B) For issuance of an appropriate writ, order or direction commanding the respondent authorities to make an inquiry about the fact that petitioner being wrongly disqualified in the provisional Merit list on a false objection that petitioner is not a resident of the surveyed Shahabuddin Tola, ward No. 8 Block- Pyarepur, Baikunthpur, District-Gopalganj whereas the petitioner is in fact a resident of Shahabuddin Tola, ward No. 8 Block Pyarepur, Baikunthpur, District-Gopalganj and thereafter cancel the selection/appointment of private respondent No- 15 & 16 who were illegally selected and appointed by hatching a conspiracy by Selection Committee of Utkramit Madhya Vidyalaya, Asha Khera, Baikunthpur, Gopalganj in connivance with other respondents.*

*(C) For issuance of appropriate writ,*



*order or direction commanding the respondent authorities to make an enquiry and take appropriate action against Shaera Begum who being the Ward-Member of Ward No. 8 conspired the appointment of Chand Tara wife of Md Salauddin and Md Sakhauddin son of Md Shahabuddin, who are her daughter-in-law and son respectively and thrown other candidates with more marks out of the Final Merit List.*

*(D) For issuance of appropriate writ, order or direction commanding the respondent authorities to make an enquiry and take appropriate action against Allauddin Ansari who despite being a Ward-Member of Ward No. 9 Block-Pyarepur, Baikunthpur, District- Gopalganj is made as Chairman of the Siksha Sewak (Talimi Markaz) selection committee of surveyed ward No-8 Block- Pyarepur, Baikunthpur, District-Gopalganj .*

*(E) For issuance of appropriate writ, order or direction commanding the respondent authorities to make an enquiry and take appropriate action against the gross irregularities committed by Mr. Vijendra Kumar, the Head Master cum Member Secretary, Selection/Steering Committee, Utkramit Madhya Vidyalaya, Asha Khera, Baikunthpur, Gopalganj in selection of candidates for vacant post of Siksha Sewak (Talimi Markaz) under the Mahadalit, Dalit and Minority Backward Class Akshar Anchal Yojana .*

3. The Shiksha Sewak/Tola Sevak is not a statutory post in nature and no recruitment rules are followed for their appointment. It arises under the scheme and the appointment is contractual for one year.

4. In this regard, a coordinate Bench of this Court, in



the 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 where under 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 the writ petitions in such matters 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."*

5. 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 .

6. Taking into consideration the aforesaid judgment of this Court and the fact that Tola Sevak/Shiksha Sewak does not hold civil post as well as the same is not a statutory post, this Court is of the opinion that present writ application is not maintainable and accordingly, this writ application is dismissed.



7. However, liberty is granted to the petitioner to take recourse to such other remedies, as may be available under the law .

**(Prabhat Kumar Singh, J)**

Koushik/-

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