

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5854 of 2023

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Upendra Sada Son of Tilo Sada @ Tilo Rishi, Resident of Village- Kandhar
Paili P.S. Dandkhora District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Panchayati Raj Departments, Govt. of Bihar, Patna.
2. The Principal Secretary Primary Education Department, Govt. of Bihar, Patna.
3. The Director Of Panchayati Raj Department, Bihar.
4. The District Panchayati Raj Department, Bihar.
5. The District Magistrate, Katihar.
6. The District Education Officer, Katihar.
7. The District Program Officer, Katihar.
8. The Principal Primary School Kandhar Paili Dhandkhora, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kunwar Ajit Singh, Advocate
For the Respondent/s : Mr. Kumar Alok (Sc7)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 11-11-2024 Heard learned counsel for the parties.

2. The petitioner has filed the present writ application for issuance of a writ in the nature of mandamus to allow him to work and discharge his duties as a Tola Sevak in the concerned school/centre.

3. The 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. A Co-ordinate 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 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."

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 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.

7. This application is, accordingly, dismissed.

8. However, liberty is granted to the petitioner to take recourse to such other remedies as are available under the law.

(Prabhat Kumar Singh, J)

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