

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6399 of 2023

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Surendra Sada Son of Phuni Sada resident of Rupnagara, Ward No.37,
Bherdhari, Kahra Saharsa, District-Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The District Magistrate Saharsa
4. State Project Officer, Govt. of Bihar, Patna
5. District Project cum Welfare Officer, Saharsa.
6. Project Director, Bihar Mahadalit Development Mission, Saharsa.
7. Principal, Midle School, Bherdhari, Ward No. 37, P.O.-Rupnagar, District-Saharsa.
8. Sub-Divisional Officer, Sadar, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Dr. Pankaj, Advocate
For the Resp./State	:	Mr. Jitendra Kr. Roy 1 (SC-13)
		Mr. Jai Prabhat Kishore, AC to SC-13
For the BMVM	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 13-11-2024 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 quash the memo no. 84-5 dated
05.04.2021 issued under the seal and signature of
District Project Officer, Saharsa (Annexure P/12)
by which and where under the petitioner has been
removed from the post of Shiksha Sewak under the
proviso of Clause- 10(iii) "K", "ANG" & "CH" of
Guidelines for Recruitment and Service conditions
for the Tola Sewak and Shiksha Sewak as



envisaged in Memo No. 1570 dated 23.02.2018.

(B) To direct the Respondents to reinstate the petitioner on the post of Shiksha Sewak and entire honorarium should be paid to the petitioner in the interest of justice.

(C) To direct the Respondents to pay the back wages/honorarium to the petitioner since January 2020.

(D) To direct the Respondents for any other relief or reliefs for which the petition is found entitled in the facts and circumstances of this case.”

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)

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