

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7978 of 2024

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Majubi Parween W/o Md. Sadir, R/o Vill Khojuchak, P.O. Sonpura, P.s. Simri Bakhtiyarpur, Dist. Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
3. The Director, the Primary Education (Education Department) of Bihar, New Secretariat, Patna.
4. The District Magistrate, Saharsa.
5. The District Education Officer, Saharsa.
6. The District Programme Officer (Saksharta), Saharsa.
7. The Block Education Officer, Simri Bakhtiyarpur, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Government Pleader 20

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 26-11-2024 Heard learned counsel for the parties.

2. The petitioner has filed the present writ application for quashing the Letter No. 117 dated 09.02.2024 issued by the District Programme Officer (Secondary Education and Literacy) whereby respondent authorities were directed to complete the selection process as per Departmental Guideline 2018 for selection of shiksha sevak against the post of petitioner.

3. Learned counsel for the petitioner submits that petitioner was discharging her duty as Shiksha Swang Sevak in



Talimi Markaj but after completion of seven years appointment of the petitioner and others was declared against the guidelines on the ground that they are minority general caste.

4. Learned counsel for the State submits that Shiksha Swang Sevak / Talimi Markaj is not a statutory post in nature and no recruitment rules are followed for their appointment. He further relies upon the judgment of a Co-ordinate Bench of this Hon'ble Court, in the matter of Tola Sewak, in CWJC No. 18107 of 2016, wherein it 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 post in question in this case 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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