

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15459 of 2016

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Md. Kudus son of Late Md. Islam resident of Village- Mirchi Bari, P.S.-
Jankinagar, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Government of Bihar, Patna
3. The District Magistrate, Purnea.
4. The District Programme Officer Establishment, District- Purnea.
5. The Headmaster Middle School, Meto Tol Mohzid Tol Panchayat Gangapur,
Block- Banmankhi, District-
6. Md. Sahid Son of Md. Mosim R/o Village- Mirchaibari Mahjid Tol, PS-
Jankinagar, District- Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Singh
For the Respondent/s : Mr. Subhash Chandra Mishra, SC-16

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 07-05-2024 Heard learned counsel for the parties concerned.

2. The petitioner has filed the present writ application for direction to the respondent-authorities for quashing the Memo No. 24, dated 23.02.2016, issued by the District Education Officer, Purnea, by which the petitioner has been terminated from the post of Tola Sewak.

3. The Tola Sewak/Talimi Markaz is appointed under the scheme on contract basis for one year. The post of Tola Sewak/Talimi Markaj is not statutory and no recruitment rules are followed for their appointment.



4. A Co-ordinate Bench of this Court, in a similar matter of Tola Sewak, in **CWJC No. 18107 of 2016 (Raj Choudhary v. The State of Bihar and Ors.)** 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 coordinate 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 whereunder 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. However, liberty is granted to the petitioner to take recourse to such other remedies as are available under the law."

5. The order passed by Co-ordinate Bench presided over by Hon'ble Single Judge in the aforesaid writ application has been affirmed by Division Bench holding that writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of this Court and the fact that Tola Sewak/Talimi Markaz does not hold civil post as well as the same is not a statutory post, I also come to the conclusion the writ application is not maintainable.

7. This application is, accordingly, dismissed.

8. However, the petitioner is given liberty to take recourse to such other remedy as is available under the law.

(Anil Kumar Sinha, J)

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