

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13774 of 2016

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Kiran Singh Wife of Shree Ramakant Singh, resident of Government Quarter
No. 6, Mithapur, near Goriya Math, P.O. G.P.O., Police Station- Jakkanpur,
District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Education, New Secretariat, Patna.
3. The Director, Bihar Education Project council, Beltron Bhawan, Shastri Nagar, Patna.
4. The District Magistrate-cum- Chairman Bihar Education Project, Patna.
5. The Deputy Development Commissioner-cum- Vice Chairman, Bihar Education Project, Patna.
6. The District Education Officer-cum-District Programme Co-ordinator, Bihar Education Project, Patna.
7. The Chairman Circle Resources Centre, Rajkiya Adarsh Balak Madhya Vidyalaya, Yarpur, Gardanibagh,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shailendra Kumar Jha
For the State	:	Mr. Mukund Mohan Jha
For the BEPC	:	Mr. Girijesh Kumar

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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 is seeking appointment as Care Giver (Awlambak). The Care Giver (Awlambak) is appointed under the scheme. The post of Care Giver (Awlambak) is not statutory and no recruitment rules are followed for their appointment.

3. A coordinate Bench of this Court, in the similar matter of non-statutory post 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 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.”

4. 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.

5. The project under which such an appointment was made on a limited contractual basis is over and no post of any Care Giver is available today.

6. Taking into consideration the aforesaid judgment of this Court and the fact that Care Giver (Awlambak) 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.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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