

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6594 of 2017

1. Sushila Kumari and Ors Wife of Sri Yamuna Rajak Resident of Vill- Daud Nagar, Ward No. 19, P.S. Daud Nagar, District Aurangabad.
2. Sanjay Ram son of Sri Surya Deo Ram Resident of Vill- Tarar, P.S. Daud Nagar, District- Aurangabad.
3. Banarsi Choudhary Son of late Deo Narayan Choudhary Resident of Vill- Gola Mahalla, Ward No. 15, P.S.Daud Nagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The State Project Director, Bihar Education Project Cou,cil, Beltron Bhawan, Shastri Nagar, Patna.
3. The District Magistrate, Aurangabad.
4. The District Education , Aurangabad.
5. The Block Education Extension Officer, Daud Nagar, Aurangabad.
6. The Chairman, Village/Tola Samiti, Government Primary School, Janaki Ram Ka Kuchcha, Daud Nagar, Au
7. The Headmaster, Government of Primary School, Janaki Ram Ka Kuchcha, Daud Nagar, Aurangabad.
8. The Chairman, Village/Tola Samiti, Middle School, Janaki Ram Ka Kuchcha, Daud Nagar, Aurangabad.
9. The Headmaster, Middle School, Tarar, Daud Nagar, Aurangabad.
10. The Chairman, Village/Tola Samiti, Primary School, Janaki Ram Ka Kuchcha, Daud Nagar, Aurangabad.
11. The Headmaster, Primary School, Budhu Bigha, Daud Nagar, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Kant Tiwari, Adv.
For the Respondent/s	:	Mr. Vinay Kumar Mishra, AC to AAG15
For the BEPC	:	Mr. Girijesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 20-06-2024 Heard learned counsel for the parties.

2. The petitioners have filed the present writ
application seeking following relief(s):-

(i) For issuance of an appropriate writ
directing and commanding the respondents to



allow the petitioners to work and to discharge their duty without any disturbance.

(ii) For issuance of a writ in the nature of mandamus directing and commanding the respondents to pay the petitioners their Honorarium (arrear and current) immediately.

(iii) For issuance of an appropriate writ directing and commanding the respondents to pay the petitioners interest for the period the Honorarium of the petitioners are not paid.

(iv) For any other relief or reliefs of which the petitioners are legally entitled to.

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

4. A Co-ordinate Bench of this Court, in the similar 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 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 Co-ordinate 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 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 Sewak* 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.

(Anil Kumar Sinha, J)

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