

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3425 of 2017

Farhat Bano D/o Fakhrussin Alam, resident of village + P.O. Sitanabad
Chowk Bazar, P.S. + Block - Simri Bakhtiyarpur, District - Saharsa

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Koshi Division, Saharsa.
5. The District Education Officer, Saharsa.
6. The District Programme Officer Literacy, Saharsa.
7. Tarannum Pravin, Wife of Md. Mofiz Khan, resident of village P.O. Sitanabad Pathan Tola, P.S. Simri Bakhtiyarpur, District - Saharsa

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Mishra, Advocate
For the Respondent/s : Smt. Shilpa Singh-GA 12

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 19-06-2024 1. Heard learned Counsel for the parties concerned.

2. The petitioner has filed this writ application for directing the respondents concerned to allow her to function and discharge her duties as Talimi Markaj Shwamsevak (Volunteer) at Urdu Kanya Primary Maktab, Sitanabad, Anchal-Simri Bakhtiyarpur, District- Saharsa.

3. According to the petitioner, she has been found qualified as her name has been found on the top of the merit list but the respondents, under conspiracy, had illegally taken steps



to appoint the private respondent on the said post. The Talimi Markaz Shikshak Swayam Sevi is appointed under the scheme on contract basis for one year, as was done in the case of Tola Sewak and the post of Talimi Markaz Shikshak Swayam Sevi is not statutory and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court, in the matter of Tola Sewak, in ***C.W.J.C. No. 18107 of 2016 (Raj Choudhary v. The State of Bihar and others)***, 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.”

5. The aforesaid order passed by a co-ordinate Bench of this Court presided over by Hon'ble Single Judge in C.W.J.C. no. 12390 of 2015 has been affirmed by a Division Bench of this Court holding that the said writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of a co-ordinate Bench of this Court and the fact that Talimi Markaz Shikshak Swayam Sevi does not hold civil post as well as the same is not a statutory post, I also come to the conclusion that the present writ application is not maintainable.

7. This application is, accordingly, dismissed.



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

(Anil Kumar Sinha, J)

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