

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8323 of 2024

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Rukhshana Khatun Wife of Md. Vasim, Resident of Village- Jagdishpur, Post
Office- Jagdishpur, Police Station- Sahebganj, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Mass Education, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer, Literacy, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Rajesh Kumar, Advocate
For the State	:	Mr. Government Pleader 4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 27-11-2024 Heard learned counsel for the parties.

2. The present writ application has been filed for the
following reliefs:-

“(i) For issuance of a direction in the nature of mandamus for commanding and directing the respondent authority especially respondent no. 5 the District Programme Officer, Literacy, Muzaffarpur to approve the selection of the petitioner on the post of Talimi Markaz Shiksha Swayam Sevi made by the Steering Committee of Talimi Markaz under the provision contained in the departmental guideline with all consequential benefits and allow to continue on the said post at Talimi Markaz Centre P.S. Jagdispur (presently upgraded as UMS Jagdishpur) Block- Sahebganj of Muzaffarpur district.



(ii) For a direction in the nature of mandamus for commanding and directing the respondent authorities especially respondent no. 5 the District Programme Officer, Literacy, Muzaffarpur for making payment of the Honorarium to the petitioner for the work done on the post of Talimi Markaz Shiksha Swayam Sevi.”

3. At the outset, learned counsel appearing on behalf of the State raised preliminary objection to the maintainability of this writ application and submits that Talimi Markaz is not a statutory post in nature and no recruitment rules are followed for their appointment. It arises under the scheme and the appointment is contractual for one year.

4. A Co-ordinate Bench of this Court, in the matter of Tola Sewak arising out of C.W.J.C. 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 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 Talimi Markaz 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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