

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8522 of 2023

Dasai Ram Son of late Subanshi Ram, Resident of Village- Khoir, P.S.- Babubarhi, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Govt. of Bihar, Patna.
2. The District Magistrate, District- Madhubani, Bihar.
3. The District Education Officer, District- Madhubani, Bihar.
4. The District Programme Officer, (Saksharta), District- Madhubani, Bihar.
5. The Block Development Officer, Block- Babubarhi, District- Madhubani.
6. The Block Education Officer, Block- Babubarhi, District- Madhubani.
7. Manjesh Ram Son of Jagdish Ram, Resident of Village- Moglaha under Dhamora Panchayat, P.S.- Babubarhi, District- Madhubani.
8. Sanjay Kumar Ram Son of Jagdish Ram, Resident of Village- Moglaha under Dhamora Panchayat, P.S.- Babubarhi, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Shashank Chandra, Advocate
For the Respondent/s : Mr. Prabhakar Jha (Gp27)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 27-11-2024

Heard learned counsel for the parties.

2. Petitioner has filed this writ application for following reliefs:-

(i) For issuance of a Writ in the nature of a Writ of certiorari, or any other appropriate Writ order, direction, quashing the illegal appointment of the Private Respondent No. 7 and 8, on the post of Tola Sewak at Utkramit Madhya Vidyalaya, Khoir under Pachrukhi Panchayat, Block - Babubarhi, as their appointment is contrary to the scheme of appointment of Tola Sewak, which clearly contemplates that preference is to be given in appointment to the candidates, who belongs to the same village, where the appointment is to be done. Both the Private Respondents are of Dhamora Panchayat and not of Pachrukhi Panchayat, where the aforesaid School



is situated in which they were appointed and the Petitioner despite being of the same village / panchayat his candidature was overlooked.

(ii) For issuance of a Writ in the nature of Writ of Mandamus commanding the Respondents to appoint the Petitioner on the sanctioned post of Tola Sewak at Utkramit Madhya Vidyalaya, Khoair under Pachrukhi Panchayat. Block Babubarhi, in terms of the meeting of the aam sabha held on 28.12.2013. The Petitioner in alternative prays for a direction upon the District Magistrate, Madhubani to decide and dispose of the detail representation dated 10.04.2023 of the Petitioner (Annexure - 7 series).

3. The Shiksha Sevak 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, 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 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. Order passed by the co-ordinate Bench 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 aforesaid judgment of this Court and the fact that Tola Sevak/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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