

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9342 of 2024

-
- 1 . Kamal Kishore Yadav Son of Sukhdeo Yadav, Village- Gauran gadh, P.S.- Sour Bazar, District- Saharasa.
 2. Mantun Ram, Son of- Kanik Ram, Resident of Village- Baraith, P.S.- Basanti, District- Saharsa.
 - 3 . Rabindra Kumar Ravi, Son of Parmeshwari Pd. Yadav, Resident of Village- Gaurav gadh, P.S.- Saur Bazar, District- Saharsa

... .. Petitioner/s

Versus

- 1 . The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Human Resource Department, Government of Bihar, Patna.
- 3 . The Director Primary Education, Bihar, Patna.
4. The Regional Deputy Director, Saharsa.
- 5 . The District Magistrate, Madhepura.
6. The District Magistrate, Saharasa.
7. The District Superintendent of Education Cum District Programme Coordinator, Madhepura.
- 8 . The District Superintendent of Education Cum-District Programme Coordinator, Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Munish Om Prakash Singh, Advocate
For the Respondent/s	:	Mr. Addl. Advocate General 3 dr. Mankeshwar Tiwari , AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 02-12-2024 Heard learned counsel for the petitioners and

learned counsel for the respondents.

2. This writ application has been filed for the



following reliefs:

“(A) To direct the respondent authority to grant an age relaxation to the petitioners so that they can apply their candidature for appointment pursuant to corrigendum on the post of Shiksha Sewak / Shiksha Sewak (Talimi Makraj) as per Memo no- 1284 of Letter No.- 13/Vi.03-01/2016 1284 dated 24/07/2023 in the contest of Letter no. 1566 dated 05/07/2019 of Department of Education, Government Of Bihar as per relief granted in C.W.J.C. No.- 866/2019.

(B) To direct the concern authority to grant one time age relaxation to the petitioners in view of order passed in C.W.J.C. No. 866 of 2019 so its enable them to get participate for their candidature pursuant to the Memo No- 1284 of Letter No.- 13/Vi.03-01/2016 1284 dated 24/07/2023 .

(C) Further during pendency of the writ application the candidature of the petitioners make secure by stay of operation/process of Memo No- 1284 of Letter No. 13/Vi.03-01/2016 1284 dated 24/07/2023 .

(D) To allow or accept the application of the petitioners and also allow to participate in the selection procedure pursuant o the Memo No- 1284 of Letter No.- 13/Vi.03-01/2016 1284 dated 24/07/2023 and of course that would be the result of the writ application .”

3. The Shiksha Sewak/Tola Sevak 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. In this regard, a coordinate 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 the writ petitions in such matters 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 Tola Sevak/Shiksha Sewak does not hold civil post as well as the same is not a statutory post, this Court is of the opinion that present writ application is not maintainable and accordingly, this writ application is dismissed.

7. However, liberty is granted to the petitioners to take recourse to such other remedies, as may be available under the



law .

(Prabhat Kumar Singh, J)

Koushik/-

U			
---	--	--	--

