

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9592 of 2024

Chinta Kumari W/O Santu Manjhi R/O- Azadnagar, Mogalchak, Post and P.S.- Mogalchak, District-Patna, Bihar, Pin Code- 803213.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, Primary Education, New Secretariat, Patna.
2. The District Magistrate, Patna.
3. The District Education Officer, Patna.
4. The Block Education Officer, Barh, Patna.
5. Sarita Kumari D/O Haro Paswan R/O (Not Known), Presently Posted at Upgraded Middle School, Panchayat- Ekdunga, Tola/Ward-04 Masatu, in the District of Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Jitendra Kumar George, Advocate
For the State	:	Mr. Standing Counsel 6

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 04-12-2024 Heard learned counsel for the parties.

2. The present writ application has been filed seeking a direction upon the respondent-Authorities to appoint the petitioner on the post of Tola Sevak/Shiksha Sevak.

3. At the outset, learned counsel appearing on behalf of the State raises preliminary objection to the maintainability of this writ application and submits that Tola Sevak/Shiksha 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. A Co-ordinate Bench of this Court, in the matter of



Tola Sewak, in 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 judgment passed in C.W.J.C. No. 12390 of 2015 has been affirmed by a Division Bench of this Court in L.P.A. No. 2185 of 2015, 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 Sevak 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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