

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10316 of 2016

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Nusarat Praveen Daughter of Md. Abdul Kayum Ansari Resident of Village -
Pandh, P.O. - Chak Bahauddin, P.S. - Dalsingh Sarai, District - Samastipur.
... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Samastipur.
3. The District Education Officer, Samastipur.
4. The District Programme Officer Saksharata Samastipur.
5. The Block Education Officer, Dalsingh Sarai, District - Samastipur.
6. The Head Master of the Primary Makatab Urdu Vidyalaya Dakotola, Village
- Pandh, P.S. - Dalsinghsarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishor Singh
For the Respondent/s : Mr. Kumar Mangalam, SC 24

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 26-04-2024 Heard learned Counsel for the parties concerned.

2. The petitioner, by way filing the present writ application, has sought for a direction to the respondents to make payment of arrears of remuneration since 30.08.2014 till the date of filing of the writ application as well as the current salary.

3. According to the petitioner, she joined the post of Talimi Markaz Shikshak Swayam Sevi on 30.08.2014. 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. 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.

5. 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.”

6. 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.

7. 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.

8. This writ application is, accordingly, dismissed.

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

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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