

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16502 of 2019

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1. Jagarnath Choudhary Son of Ram Lakhan Ram Resident of Village-
Gheghiyan, Police Station- Mohania, District- Kaimur.
 2. Rekha Kumari @ Rekha Devi Daughter of Brij Bihari Choudhary, Wife of
Jagarnath Choudhary Resident of Village- Gheghiyan, Police Station-
Mohania, District- Kaimur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of State of
Bihar at Patna.
2. The Principal Secretary Education Department-cum-2nd Appellate
Authority, Bihar at Patna.
3. The Divisional Commissioner Patna Division, Patna-cum-1st Appellate
Authority.
4. The District Magistrate Kaimur at Bhabua.
5. The District Public Grievance Redressal Officer Kaimur at Bhabua.
6. The District Education Superintendent-cum- District Programme Convener
Bihar Education Mission, Kaimur at Bhabua.
7. The District Programme Officer (Literacy) Kaimur at Bhabua.
8. The District Programme Officer Primary Education and Sarva Shiksha
Abhiyan, Kaimur at Bhabua.
9. The Chairman Mahadalit Samitee, Gheghiyan Primary School, P.S.-
Mohania, District- Kaimur.
10. The Head Master Primary School, Gheghiyan, P.S.- Mohania, District-
Kaimur-cum- Secretary, Mahadalit Samitee, Primary School, Gheghiyan.
11. Mohan Choudhary Son of Late Ram Padarath Choudhary Tola Swayam
Sewak, Primary School, Gheghiyan, P.S.- Mohania, District- Kaimur.
12. Kumari Tara Daughter of Ramdeo Ram Tola Swayam Sewak, Primary
School, Gheghiyan, P.S.- Mohania, District- Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Pathak, Advocate
For the Respondent/s : Mr.Madhaw Pd. Yadaw (GP 23)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 04-01-2024

1. Heard learned counsel for the parties concerned.



2. The petitioners have filed the present writ application for quashing of orders dated 18.09.2017 and 24.07.2017, passed by Principal Secretary, Education Department-cum-2nd Appellate Authority, Bihar at Patna and Divisional Commissioner, Patna Division, Patna-cum-1st Appellate Authority, respectively holding that the petitioners were never appointed as Tola Sewak and honorarium is not permissible.

3. The Tola Sewak is appointed under the scheme on contract basis for one year. The post of Tola Sewak is not statutory and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court in a similar 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 coordinate 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."

5. The order passed by a Co-ordinate Bench presided over by Hon'ble Single Judge in the aforesaid writ application has been affirmed by Division Bench holding that writ petition is not maintainable.
6. Taking into consideration the aforesaid judgment



of this Court and the fact that Tola Sewak 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 writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.01.2024
Transmission Date	NA

