

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5578 of 2017

Sabiha Khatun Wife of Seraj Ali Resident of Village-Pinjora Sheikhpura P.S.-
Kako District-Jahanabad, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education, Government of Bihar, Patna.
2. The Principal Secretary, Education, Government of Bihar, New Secretariat, Patna.
3. The Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Jahanabad, Bihar.
5. The District Education Officer, Jahanabad.
6. The District Programme Officer, Literacy Jahanabad.
7. The Block Education Officer, Kako Jahanabad.
8. The Head Master Government Middle School, Pinjora, P.S.-Kako, District-Jahanabad, Bihar.
9. Aiman, Daughter of Abbas Alam, Resident of Village-Jamuk, P.S.-Jahanabad, District-Jahanabad, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Avinash Shekhar, Advocate
For the Respondent/s : Mr.Madhaw Prasad Yadav-GP 23

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 20-06-2024 1. Heard learned Counsel for the parties concerned.

2. The petitioner has filed this application for a direction upon the respondents to appoint her on the post of Talim Markaz (Tola Sevika), as the petitioner has topped in her category.

3. According to the petitioner, at the time of counselling, only two applications were on the record but thereafter, it came to light that some discrepancies were



occurred in the process of 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 application is, accordingly, dismissed.



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

(Anil Kumar Sinha, J)

rinkee/-

U			
---	--	--	--

