

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12927 of 2023

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Bhola Manjhi Son of Late Rama Manjhi, Resident of Village- Rajapur Indaul,
Nemdarganj, P.S.- Akbarpur, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Govt. of Bihar, Patna.
2. The District Magistrate -Cum- Collector, Nawada.
3. The District Education Officer, Nawada.
4. The District Education Superintendent-Cum- District Programme Officer,
Bihar Education Programme, Nawada.
5. Block Development Officer, Akbarpur, District-Nawada.
6. The Headmaster, Primary School, Indaul, P.S.-Akbarpur, District- Nawada.
7. The Chairman, Village/Tola Committee, Indaul, P.S.- Akbarpur, District-
Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Chandrasekhar Sharma
For the Respondent/s : Mr.Prabhakar Jha (Gp 27)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 11-12-2024 Heard learned counsel for the parties.

2. The petitioner has filed the present writ application
for following reliefs:-

*i. For issuance of writ in the nature of
Certiorari to quash the order of District Magistrate,
Nawada as Contained in Memo No.-769 PB dated
09.10.2019 passed in Misc. Case No.-191 (M)/2016
by which he rejected the said appeal case and
confirmed the order of District Education Officer,
Nawada as contained in Memo No.-650 dated
05.12.2014.*

*ii. For issuance of further writ in the nature
of Certiorari to quash the order of District Education
Officer, Nawada as contained in Memo No.-650 dated
05.12.2014 by which petitioner has been removed*



from his Service on the post of Tola Sevak after 6 years of his Service.

iii. For issuance of writ in the nature of Mandamus Commanding and directing the Respondents Concerned to restore the Service from the petitioner on the post of Tola Sevak and allowed him to Continue his service.

3. The 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. A Co-ordinate 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 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. Order passed by the co-ordinate Bench 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 aforesaid judgment of this Court and the fact that Tola 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)

Prakash/-

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