

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12646 of 2024

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Kumar Sanu Son of Anchu Manjhi Resident of village and Post- Birju Milki,
Police Station- Harnaut, District Nalanda, at present Tola Sevak at Primary
School, Chakhmind, P.O.- Birju Milki, P.S.- Harnaut, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Education Department, Govt. of Bihar.
3. The District Programme Officer, Prathmic Shiksha Literacy, Nalanda.
4. The District Education Officer, Nalanda.
5. The District Programme Co-ordinator, District Pariyajana, Nalanda.
6. The Block Education Officer, Harnaut, Nalanda.
7. Block Programme Co-ordinator, Harnaut Nalanda.
8. The Head Master, Primary School, Chackmind, Nalanda.
9. The State Project Director, Bihar Education Project Council, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mukul Jee
For the Respondent/s	:	Mr.Government Pleader 11

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 27-08-2024 1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for
the following reliefs:-

(i) Issuance of a direction order or writ including writ in the nature of mandamus commanding the respondents to conduct thorough enquiry to pay the honorarium with all back dues and continue the service as tola sevak since 2010 till now.

(ii) Issuance of the declaration holding that petitioner in the wake of a valid appointment by the competent authority as Tola Sevak and under civil principle- APPROBATE and REPROBATE, is entitled to



honorarium with back dues and continuation of the service in absence of any removal.

(iii) Any other relief / reliefs the petitioner may be entitled to in the facts and circumstances of the present case.

3. The “Tola Sevak” is appointed under the scheme on contract basis for one year and the post of “Tola Sevak” 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 Sevak” in C.W.J.C. No. 18107 of 2016 (Raj Choudhary vs. The State of Bihar and Ors.) 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 Co-ordinate 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 Co-ordinate Bench presided over by Hon’ble Single Judge in the aforesaid writ application has been affirmed by Division Bench of this Court holding that writ petition is not maintainable.

6. Taking into consideration the 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, the petitioner is given liberty to take recourse to such other remedy as is available under the law.

(Anil Kumar Sinha, J)

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