

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12469 of 2023

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1. Md. Shadab Usmani Son of Md. Shabbir Ahmad Usmani, resident of Village- Yadupatti, Police Station - Nanpur, District - Sitamarhi.
 2. Md. Sami Alam, Son of Md. Maslehuddin Ansari, resident of village- Bhim Nagar Dimahi Police Station - Parihar, District- Sitamarhi.
 3. Rabbani Praween, wife of Md. Noor Alam Ansari, resident of Ward No. 15, Pupri, Belmohan, Police Station - Pupri, District - Sitamarhi.
 4. Shabnam Ara, Wife of Md. Shamim Ansari, Resident of - Ward No. 03, Bachharpur Police Station - Pupri, District - Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Education Department Bihar Patna.
2. The District Magistrate, Sitamarhi.
3. The District Programme Officer (Literacy) Sitamarhi, District Sitamarhi.
4. The Block Education Extension Officer, Sonbarsa District Sitamarhi.
5. The Block Development Officer, Pipra District Sitamarhi.
6. The Circle Officer, Pipra District Sitamarhi.
7. The Co-ordinator, Block Programme, Pipra, District Sitamarhi.
8. The Headmaster, Government servant Middle School, Bachharpur, Pupri Block, District - Sitamarhi.
9. The Headmaster, Government Middle School, Belmoha, Pupri Block, District - Sitamarhi.
10. The Headmaster, Government Middle School, Ydupatti, Block Nanpur, District - Sitamarhi.
11. The Headmaster, Government Primary School, Bimahi, Block Parihar, District - Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioners : Mr. Ashok Kumar Jha, Advocate
For the State : Mr. Madanjeet Kumar, GP-20

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 10-12-2024 Heard learned counsels for the parties.

2. At the outset, learned counsel appearing on behalf



of the petitioners seeks permission to make corrections in the cause title, during course of the day.

3. Permission, as prayed for, is accorded.

4. Office is directed to make the necessary corrections in the records.

5. The present writ application has been filed for commanding the respondents to make payment of honorarium to the petitioners from 01.04.2017.

6. At the outset, learned counsel appearing on behalf of the State raises preliminary objection to the maintainability of this writ application and submits that Talimi Markaj 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.

7. A Co-ordinate Bench of this Court, in the matter of Tola Sewak, arising out of 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 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.”

8. The order passed by the co-ordinate Bench presided over by Hon'ble Single Judge passed in *C.W.J.C. No. 12390 of 2015* has been affirmed by a Division Bench of this Court in *L.P.A. No. 2185 of 2015*, holding that the writ petition is not maintainable.

9. Taking into consideration the aforesaid judgment of this Court and the fact that Talimi Markaj 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.

10. This application is, accordingly, dismissed.

11. However, liberty is granted to the petitioners to take recourse to such other remedies as are available under the



law.

(Prabhat Kumar Singh, J)

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