

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13699 of 2024

Md. Nazir Ali S/o Akhtar Hussain, R/o Village-Vishmabharpur, Amaitha,
P.O.-Jaintpur, P.S. and Block-Saraiya, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. The Secretary, Education Department, Bihar, Patna.
3. The Director, Mass Education cum Addl. Secretary, Education Department, Bihar, Patna.
4. The District Magistrate, Muzaffarpur.
5. The District Education Officer (Literacy), Muzaffarpur.
6. The District Program Officer Literacy, Muzaffarpur.
7. The Block Education Officer Saraiya Block, Muzaffarpur.
8. The Headmaster cum Secretary, Selection Committee Utkramit Middle School Barewa Block and P.S.-Saraiya, District-Muzaffarpur.
9. Md. Noor Alam, S/o Md. Manjoor Alam, R/o Village-Vishmabharpur, Amaitha, P.O.-Jaintpur, P.S. and Block-Saraiya, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Manoj
For the Respondent/s : Mr.Government Pleader (18)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

2 10-09-2024 1. Heard learned counsel for the parties concerned.

2. The petitioner has filed the present writ application for a direction to the respondents to arrange fresh counselling and appointment of the petitioner on the post of Talimi Markaj Shiksha Swamsevi reserved for male category with all consequential benefit as incomplete application of respondent no. 9 has been accepted wrongly and illegally by respondent no. 8 in violation of schedule and work calendar issued by



respondent no. 6 by fixing acceptance of application till 19.08.2023 (Annexure-P2) and further for setting aside the appointment letter bearing letter no. 84 dated 11.03.2024 (Annexure- P9) issued by respondent no. 6 which is contrary to the Tola Sevak and Shiksha Swam Sevi Selection and Service Condition Guidelines (Annexure- P1).

3. The “Talimi Markaj Shiksha Swamsevi” is appointed under the scheme on contract basis as was done in the case of Tola Sevak and the post of “Talimi Markaj Shiksha Swamsevi” is not statutory and no statutory 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 “Talimi Markaj Shiksha Swamsevi” 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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