

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14241 of 2023

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Shama Khatoon @ Shama Khatun Wife of Md. Shakil @ Md. Sakil, Resident
of Village- Babubarhi Ward no. 13, P.S.- Babubarhi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through its Additional Chief Secretary of Education Department, Govt. of Bihar, Patna.
2. The Director 'Mass Education' Department, Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education Department of Darbhanga range Darbhanga.
4. The District Magistrate, Madhubani District.
5. The District Education Officer of Madhubani district, Madhubani.
6. The District Programme Officer (Saksharta) of Madhubani District, Madhubani.
7. The Block Education Officer, Babubarhi, under the Madhubani district.
8. The Headmaster, Rajkiya Kanya Middle School, Babubarhi, Madhubani.
9. The Cluster Resource Centre coordinator of Babubarhi block of Madhubani district.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Jha, Adv.
For the Respondent/s : Mr. Madhukar Mishra (AC to SC-16)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 12-12-2024 Heard learned counsel for the petitioner and learned
counsel for the respondent / State.

2. This writ petition has been filed for following
reliefs:-

“(i) For setting aside the flagrant ante-dated letter vide memo no.58/ Madhubani dated 17.01.2022 passed by respondent no.5 and 6 conjointly as annexure-11 whereby and where under the appointment of 11 Tola Sevak/Talimi Markaz including petitioner has been set aside without asking any show cause as well as without providing any so-called enquiry report upon which



relying this order has been passed without hearing the petitioner and as such the respondents abstained from complying the order dated 21.8.2019 passed by the Hon'ble High Court Patna in CWJC No. 16952/2019.

(ii) For issuance of direction to the authorities concerned to immediately reinstate the service of petitioner after giving entire benefits from the date of her initial appointment to as yet for which she is legally entitled as per statutory provision of law.

(iii) For issuance of direction to the respondents concerned to provide the entire remuneration amounts of the working period of the petitioner from the date of her initial appointment to till now as per statutory interest in accordance with the statutory provision of law after considering her continuous work.”

3. The Tola Sevak (Talimi Markaz) 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 coordinate 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 coordinate 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 the aforesaid judgment of this Court and the fact that Talimi Markaz 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 writ 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)

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