

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14328 of 2023

1. Md. Shaquil @ Md. Shakil Son of Md. Rahamtullah, Resident of village - Babubarhi, P.S - Babubarhi, District - Madhubani. Posted as Talimi Markaz in (Mairsa) Madarsa Islahual Muslemin Babubarhi of Madhubani district
2. Nargis Begam, Wife of Md Firoz, Resident of village- Mishrolia, P.S. - Babubarhi, District - Madhubani. Posted as Talimi Markaz in Rajkiya Upgraded Middle School Khoir.
3. Rehana Khatoon, wife of Md. Naem, Resident of village - Babubarhi, P.S. - Babubarhi, District - Madhubani, Posted as Talimi Markaz in Rajkiya Upgraded Middle School Chhaurahi.
4. Yasmeen Parween, wife of Md. Shafik, Resident of village - Mishrolia, P.S. - Babubarhi, District - Madhubani. Posted as Talimi Markaz in Madrasa (Mairsa) Islahul Muslemin Babubarhi of Madhubani district.
5. Nusrat Khatoon, wife of Md Kalamuddin, Resident of village- Devra, P.S. - Babubarhi, District - Madhubani. Posted as Talimi Markaz in Rajkiya Upgraded Middle School Devra.
6. Dasai Ram, son of Late Subanshi Ram, Resident of village - Khoir, P.S. - Babubarhi, District - Madhubani. Posted as Tola Sevak in Rajkiya Upgraded Middle School Khoir.
7. Tarnnum Khatoon, wife of Md. Hasim, Resident of village - Tirhuta, P.S. - Babubarhi, District - Madhubani. Posted as Talimi Markaz in Middle School Madarsa Hanifa.
8. Shabana Khatoon, D/o Md Isarail, Resident of Village - Chhaurahi, P.S. - Babubarhi, District - Madhubani. At present posted as Talimi Markaz in Rajkiya Middle School Chhaurahi.
9. Md. Siraj, son of Md Mustak Resident of village - Tirhuta, P.S. - Babubarhi, District - Madhubani. At present posted as Talimi Markaz in Rajkiya Middle School Baruar.
10. Hari Narayan Ram, Son of Vindeshwar Ram, Resident of village - Tirhuta, P.S. - Babubarhi, District - Madhubani. At present posted as Tola Sevak in Primary School Balati Musahari.

... .. Petitioner/s

Versus

1. The State of Bihar through its Additional Chief Secretary Education Department Govt. of Bihar, Patna.
2. The Director Mass Education Department Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education Department Darbhanga range Darbhanga.
4. The District Magistrate, Madhubani.
5. The District Education Officer Madhubani.
6. The District Programme Officer (Saksharta) Madhubani.
7. The Block Education Officer, Babubarhi, Madhubani.



8. The Key resource person of Babubarhi Block of Madhubani district,
9. The Headmaster of Madarsa (Mairsa) Ishlahul Muslemin Babubarhi of Madhubani district.
10. The Headmaster of Rajkiya Middle School Baruar of Babubarhi Block of Madhubani District.
11. The Headmaster of Rajkiya, Upgraded Middle school Khoir of Babubarhi block under the Madhubani district.
12. The Headmaster Rajkiya Middle School Chhourhi, Babubarhi of the Madhubani district.
13. The Headmaster of Rajkiya Upgraded Middle School Devra of Babubarhi under the Madhubani district.
14. The Headmaster of Madarsa Hanifia at Tirhuta of Babubarhi under the Madhubani district.
15. The Headmaster of New Primary School Balati Musahari of Babubarhi block under the Madhubani district.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Jha
For the Respondent/s : Mr.Jitendra Kr. Roy 1 (Sc13)

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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 antedated letter vide memo no. 80/Madhubani dated 2.2.2022 passed by the respondent no. 5 and 6 conjointly as annexure-14 whereby and where under the appointment of petitioners on the post of Talimi Markaz/Tola Sevak have been set aside without asking any show-cause as well as without providing any so- called enquiry reports as mentioned in this order relying upon which this termination order has been passed against the petitioners without hearing and as such the respondents abstained to comply the order dated 17.10.2019 passed by the Hon'ble High Court, Patna in CWJC NO. 3023/2019.



(ii) For issuance of direction to the authorities concerned to immediately reinstate the service of petitioners after giving entire benefits from the date of their initial appointment to yet for which they are 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 petitioners from the date of their initial appointment to till now as per statutory interest in accordance with the statutory provision of law after considering their continuous working period.”

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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