

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9683 of 2017

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Ruby Khatoon Wife of Md. Murshed Ali, Resident of Village-Rambhadrapur,
P.S. Hathauri, Block Shivaji Nagar, District Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Public Education Cum Joint Secretary, Education Department,
Bihar, Patna.
4. The District Magistrate, Samastipur
5. The District Programme Officer Literacy, Samastipur.
6. The Block Education Officer, Shivaji Nagar, Samastipur.
7. Headmaster, Upgraded Middle School, Rambhadrapur, Shivaji Nagar,
Samastipur.
8. Secretary, Vidyalaya Shiksha Samiti Cum Chairman of Selection
Committee, Rajaur Rambhadrapur, Shiva
9. Musharraf Pravin Wife of Md. Zakir, Resident of Village-Rambhadrapur,
P.S. Hathauri, Block Shivaji Nagar, District Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.
For the Respondent/s : AAG15

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 27-06-2024 Heard learned counsel for the parties.

2. The petitioner has filed the present writ application for quashing the order contained in Memo No. 440 dated 01.06.2017 issued under the signature of District Programme Officer, (Literacy), Samastipur whereby the claim of the petitioner for payment of due honorarium has been rejected and appointment of the petitioner as Education Volunteer (Shiksha Swayamsevi) has also been terminated.



3. The Education Volunteer (*Shiksha Swayamsevi*) is appointed under the scheme on contract basis for one year. The post of Education Volunteer (*Shiksha Swayamsevi*) is not statutory and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court, in the similar 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 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 the Co-ordinate Bench presided over by Hon'ble Single Judge 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 Education Volunteer (*Shiksha Swayamsevi*) 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, liberty is granted to the petitioner to take recourse to such other remedies as are available under the law.

(Anil Kumar Sinha, J)

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