

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15243 of 2023

Meera Kumari W/o-Sri Ramu Ram R/o-Village-Dumaria Estate, P.S.-
Shikarpur, Block-Narkatiaganj, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additinal Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director Primary Education, Govt. of Bihar, Patna.
3. The District Magistrate, West Champaran.
4. The District Education Officer, West Champaran.
5. The District Programme Officer (Esst.), West Champaran.
6. The Block Education Officer, Block-Narkariaganj, District-West Champaran.
7. The Headmaster, Rajkiya Madhya Vidyalaya, Dumaria Estate, Block-Narkatiaganj, Distt.-West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh, Advocate
For the Respondent/s : Mr. Prabhakar Jha (Gp27)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 16-12-2024 Heard learned counsel for the petitioner and

learned counsel for the respondents.

2. This writ application has been filed for the
following reliefs:

*“(A) To direct the respondent/s the
Headmaster, Rajkiya Madhya Vidyalaya,
Dumaria Estate, Block-Narkatiaganj,
District-West Champaran (Resp. No-7), to
send the attendance details of petitioner,
who is working on the post of Tola Swam
Sevak under Achhar Anchal Scheme, in
Rajkiya Madhya Vidyalaya, Dumaria,
Block-Narkatiaganj, District. West
Champaran, to the District Education*



Officer and the District Programme Officer (estt). West Champaran (Resp. No-4 & 5) as well as Block Education Officer. Narkatiaganj (Resp. No-6) which has not been sent since June 2019 and be further direct the District Education Officer and the District Programme Officer (estt.), West Champaran (Resp. No-4 & 5) as well as Block Education Officer, Narkatiaganj (Resp. No-6) to pay the arrears of salary to the petitioner which is due since June 2019 with appropriate statutory interest as well as current salary on month to month basis.

3 . The Shiksha Sewak/Tola Sevak 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. In this regard, 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 the writ petitions in such matters 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 . 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 Tola Sevak/Shiksha Sewak does not hold civil post as well as the same is not a statutory post, this Court is of the opinion that present writ application is not maintainable and accordingly, this writ application is dismissed.

7. However, liberty is granted to the petitioner to take recourse to such other remedies, as may be available under the law .

(Prabhat Kumar Singh, J)

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