

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16162 of 2023

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1. Baby Kumari @ Babi Kumari Wife of Sri Vikash Ram, Resident of village Kritpur, Police Station - Harsiddhi, District - East Champaran.
 2. Anita Kumari, Wife of Sri Jitendra Kumar, Resident of village Ghoghraha, Post Betia di, Police Station - Harsiddhi, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Joint Secretary-cum-Director, Mass Education, Bihar, Patna.
5. The District Magistrate, East Champaran at Motihari.
6. The District Education Officer, Motihari, East Champaran.
7. The District Programme Officer, East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Mishra (Sc16)
		Mr. Madhukar Mishra, AC to SC 16

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-12-2024 Heard learned counsel for the parties.

2. The petitioners have filed the present writ application for directing the respondents to appoint petitioners, by way of adjustment, on the vacant posts of Tola Sevak/Talimi Markaj in the district of East Champaran in terms of Memo No. 2437 dated 21.09.2017 and Letter No. 1284 dated 24.07.2023.

3. The 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. A Co-ordinate 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. 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 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 petitioners to take recourse to such other remedies as are available under the law.

(Prabhat Kumar Singh, J)

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