

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16646 of 2023

Shivchandra Kumar S/o Sri Baiju Ram, Resident of Village - Sodhana Madhopur, ward No. 1, P.O.- Kodariya, and P.S.- Siwaipatti, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary-cum Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, Muzaffarpur.
5. The Director, Public Education, Bihar, Patna.
6. The District Education Officer, Muzaffarpur.
7. The District Programme Officer, Muzaffarpur.
8. The Block Education Officer, Minapur, Muzaffarpur.
9. Sumitra Kumari, wife of Mahendra Rajak, Head Master, Rajkiya Upgraded Middle School, Sodhana Madhopur, P.O.- Kodariya, P.S. - Siwaipatti, District- Muzaffarpur.
10. Pankaj Kumar, S/o Jay Ram Choudhary, Age- Not known, Village - Sodhana Madhopur, ward No.2, P.O. - Kodariya and P.S. - Siwaipatti, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Priyank Samdarshi, Advocate
For the State	:	Mr. Madhukar Mishra, AC to SC-16

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 18-12-2024 Heard learned counsel for the parties.

2. The present writ application has been filed seeking a direction upon the respondent-Authorities to appoint the petitioner on the post of Tola Sevak/Shiksha Sevak under the scheme of Akshar Aanchal Yojana in Middle School, Sodhana Madhopur, Village/Tola- Sodhana Madhopur, Block- Minapur,



District- Muzaffarpur in place of private Respondent No. 10.

3. At the outset, learned counsel appearing on behalf of the State raised preliminary objection to the maintainability of this writ application and submits that Tola Sevak/Shiksha 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 Hon'ble Court, in the matter of Tola Sewak, arising out of *C.W.J.C. 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 passed in *C.W.J.C. No. 12390 of 2015* has been affirmed by a Division Bench of this Court in *L.P.A. No. 2185 of 2015*, 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 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 petitioner to take recourse to such other remedies as are available under the law.

(Prabhat Kumar Singh, J)

shashank/-

U			
---	--	--	--

