

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18431 of 2024

Md. Aslam Ali S/o Md. Jainul R/o- Village- Gopinathpur Dokra, P.O. and P.S.-Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Education Department Bihar, Patna.
2. The Secretary, Education Department, Bihar Patna.
3. The Director, Mass Education cum Addl. Secretary, Education Department, Bihar Patna.
4. The District Magistrate, Muzaffarpur.
5. The District Education Officer, (Literacy) Muzaffarpur.
6. The District Program Officer Literacy, Muzaffarpur.
7. The Block Education Officer Saraiya Block, Muzaffarpur.
8. Ashma Khatoon, W/o Md. Hakeem R/o Village- Jagarnathpur Dokra, Block- Saraiya, P.S. Saraiya District- Muzaffarpur.
9. The Headmaster, Rajkiya Buniyadi Vidyalaya, Dokra Block and P.S.- Saraiya District- Muzaffarpur.
10. Md. Rustam Ali, S/o Md. Hakim R/o- Jagarnathpur Dokra, P.O. and P.S.- Saraiya District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj
For the Respondent/s : Mr. Government Pleader (6)

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 04-12-2024 Heard learned counsel for the parties.

2. The petitioner has filed the present writ application for following reliefs:-

“That this application is being filed for issuance of appropriate writ/writs by commanding the respondents to arrange the fresh counselling and appointment of the petitioner on the post of Talimi Markaj Shiksha Swamsevi reserved for male category with all consequential benefit by declaring the selection of Respondent no.-10 as per the selection list dt. 13.03.2024 issued by Respondent no.-5 and name of respondent no.10 at serial no. 36, is wrong illegal and the appointment is to be set



aside as the selection made in chairmanship mother of respondent no. 10 who is the elected member of ward no.-12, Jagarnathpur Dokra and further the said selection made in violation of Rule 4(cha) by which the selection is to be made from the selected and marked tola whereas respondent no.10 is of another Tola which is contrary to the Tola Sevak and Shiksha Swam Sevi Selection and Service condition Guidelines (Annexure-P2) whereas this petitioner is resident of the marked and selected tola Gopinathpur Dokra Block- Saraiya District-Muzaffarpur.”

3. The Shiksha Sevaks (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 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. Order passed by the co-ordinate 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 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 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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