

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17774 of 2024

Nasreen Daughter of Mohd. Mustkim Resident of village- Fatehabad, Post Office- Fatehabad, P.S.- Paroo, District- Muzaffarpur, Pin- 843107, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Mass Education, Education Department, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Education Officer, Muzaffarpur.
5. The District Programme Officer, Literacy, Muzaffarpur.
6. The Block Education Officer, Paroo, Muzaffarpur.
7. Headmaster-cum-Convener Shiksha Swayamsevi Employment Committee, Talimi Markaz Centre, Primary School Fatehabad RST, Paroo, Muzaffarpur.
8. Ward Member- Cum- Chairman, Shiksha Swayamsevi Employment Committee, Talimi Markaz Centre, Primary School Fatehabad RST, Paroo, Muzaffarpur.
9. Nagma Khatoon, Daughter of Mohd. Hamid Raza, Village and Post Office- Fatehabad, Ward No.- 5, Paroo, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar
For the Respondent/s : Mr.Government Advocate 9

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 26-11-2024 Heard learned counsel for the parties.

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

(i)For issuance of appropriate writ/writs in the nature of Certiorari quashing the selection of the private Respondent No. 9 Nagma Khatoon for the post of Shiksha Sevak (Talimi Markaz) as shown at the Serial No. 25 of the Selection List (Annexure-P/7) issued under the signature of the Respondent No. 5 District Programme Officer, Literacy, Muzaffarpur arbitrarily and illegally i.e completely contrary to the



provision contained in the Tola Sevak & Shiksha Swayamsevi Selection & Service Conditions guideline 2018.

(ii) For issuance of appropriate writ/writs in the nature of mandamus commanding and directing the respondent authorities especially respondent no. 5 the District Programme Officer, Literacy, Muzaffarpur to select and issue an appointment letter to the petitioner on the post of Shiksha Sevak (Talimi Markaz) on the ground that she is the only eligible aspirant and validly entitled to the aforesaid post according to the provision contained in the "Tola Sevak & Shiksha Swayamsevi Selection & Service Conditions guideline 2018" after quashing the selection of the private respondent no. 9 Nagma Khatoon to the said post.

3. The Shiksha Sevak (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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