

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18168 of 2024

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Niranjan Kumar Son of Ajay Paswan Resident of Village- Saraiya, P.S.-
Rajepur, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Department, Govt. of Bihar, Patna.
2. The Director, Jan Siksha, Govt. of Bihar, Patna.
3. The District Magistrate, East Champaran.
4. The District Education Officer, East Champaran.
5. The District Programme Officer, East Champaran.
6. The Block Education Extension Officer, Block- Tetaria, East Champaran.
7. The Headmaster, Govt. Utkramit Middle School Saghari, Block- Tetaria, East Champaran.
8. Rakesh Baitha, Son of Kishor Baitha Resident of Village- Saraiya, P.S.- Rajepur, District- East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dr. Om Prakash Om
For the Respondent/s : Mr.Government Advocate (5)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 02-12-2024

Heard learned counsel for the parties.

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

That this is an application for issuance of an appropriate Writ, Order or direction to the concerned respondent to cancel the selection of Respondent No. 8 who has been selected for the Post of "Tola- Sewak" under Akshar Aanchal Yojana in Gram Panchayat Raj Meghua, Ward No. 7, Block- Tetaria, East Champaran which name has been mentioned as Serial No. 1 in the merit list issued by Respondent No. 7 by overlooking the guidelines of selection of Tola Sewak issued by the Govt. in which it is clearly mentioned that selection be made from the



majority of the concerned community population while the population of Mahadalit from which Respondent no. 8 belongs is only 30 in Ward-7 and the petitioner further prays to select him on the Post of Tola-Sewak in Ward-7 so that he belongs to Dalit Community which population is 187 in Ward-7 and the petitioner again further prays for a direction not to appoint Respondent No. 8 on the Post of Tola-Sewak and the petitioner also further prays to grant any other relief/reliefs as the Hon'ble Court may think fit and proper.”

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. 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 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 petitioner to take recourse to such other remedies as are available under the law.

(Prabhat Kumar Singh, J)

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