

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.370 of 2020

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Naresh Ram S/o Ramdhani Ram R/o Village- Isaur, P.S.- Deo, District-
Aurangabad (Bihar). Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Department, Government of Bihar, Patna.
2. District Magistrate, Aurangabad (Bihar).
3. District Education Officer, Deo, Aurangabad (Bihar).
4. District Programme Officer, Literacy, Aurangabad (Bihar).
5. Block Education Officer, Dev, Aurangabad (Bihar).
6. The Headmaster (Present), Government Middle School, Isaur, Deo, Aurangabad (Bihar).
7. Coordinator, Sankul Sansadhan Kendra Middle School, Vishnupur, Prakhand- Dev, P.S.- Dev, District- Aurangabad (Bihar).
8. The Headmaster, (Ex- In- Charge Headmaster), Government Middle School, Isaur, Deo, Aurangabad (Bihar).
9. Dilip Kumar, Adhyaksh, Tola Sewak Employment Samiti, Isaur, District- Aurangabad (Bihar).
10. Saraswati Devi, Sachiv, Tola Sevak Employment Samity, Isaur, District- Aurangabad (Bihar).
11. Prakash Lal, C.R.C.C. Sankul Sansadhan Kendra Samanyaway, Prakhand Deo, District- Aurangabad (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lal Bahadur Singh, Mr. Dhaneshwar Pd. Gupta, Advocates
For the Respondent/s	:	Mr. Umesh Narayan Dubey, AC to GP-27

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

13 23-04-2024 Heard learned counsel for the petitioner and learned
counsel for the Respondents.

2. The present writ petition has been filed on behalf of the petitioner to set aside the Memo No. 259 dated 27.08.2016 passed by the District Programme officer, Literacy, Aurangabad (Bihar) as well as Memo No. 02 dated 17.09.2016 issued by Headmaster-cum-Member Sachiv, Tola Samiti, Rajkiya Madhya Vidyalaya, Isaur, Dev, Aurangabad (Bihar) [Annexure P/5 & P/5-A].



3. Learned counsel for the petitioner submits that earlier the petitioner was appointed on the post of Tola Sevak. Later on, the service of the petitioner was terminated by the concerned authorities. Therefore, the petitioner filed an appeal bearing Appeal No. 33/2016 before District Teacher's Appellate Authority, Aurangabad, Bihar which was rejected *vide* order dated 15.05.2017 on the ground that the said appeal is out of the jurisdiction of Appellate Authority. Thereafter, the petitioner filed the present writ application.

4. Learned counsel for the State submits that a Co-ordinate Bench of this Court has decided the similar matter in ***CWJC No. 4475 of 2019*** *vide* its order dated 30.11.2023 holding that the Tola Sevak is an appointment under the scheme on contract basis for one year and the post of Tola Sevak is not statutory and no recruitment rules are followed for their appointment. Learned Single Judge has further been pleased to quote the judgment of another Co-ordinate Bench of this Court, in the matter of Tola Sevak passed in ***CWJC No. 18107 of 2016*** which is 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 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 whereby and whereunder 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 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. However, liberty is granted to the petitioner to take recourse to such other remedies as are available under the law."

5. 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, this Court is also not inclined to grant relief to the petitioner.

6. This writ application, accordingly, stands dismissed.

(Anjani Kumar Sharan, J)

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