

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14069 of 2025

=====

Shamim Haidar Son of Naushad Ali, Resident of Village- Bhagwanpur
Kotwa, Ghorasahan North, P.O.- Ghorasahan, P.S.- Ghorasahan, District- East
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Addl. Chief Secretary, Govt. of Bihar, Patna Education Department.
3. The District Magistrate, Motihari, East Champaran.
4. The District Education Officer, Motihari, East Champaran.
5. The District Program Office, (Shakcharta Madhamik Siksha), Motihari, East Champaran.
6. The Block Development Officer, Ghorasahan, East Champaran.
7. The Block Education Officer, Ghorasahan, East Champaran.
8. The Head Master, Primary School, Ghorasahan, east Champaran cum
Convenor Shisha Sewak (Tamili Markaz) Committee, Primary School,
Ghorasahan, East Champaran.
9. The President, Shiksha Sewak (Tamili Markaz) Committee, Ward No.- 4,
Primary School, Ghorasahan, East Champaran.
10. Manan Khan, S/o Late Anwar Hussain, Resident of Village- Bhagwanpur,
Kotwa, Ghorasahan North, P.O. and P.S. Ghorasahan District- East
Champaran.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sunil Kumar No. III, Advocate
For the Respondent/s : Mrs. Puspanjali Sharma, AC to SC 20

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 02-09-2025 1. Heard learned counsel for the parties concerned.
2. The petitioner has filed the present writ application for
the following reliefs:-

“That this an application for issuance of writ in
the nature of mandamus, order or orders direction or
directions commanding the respondents concerned
to cancel the appointment of respondent no.-10 who



has been appointed on the post of Tola Sewak in Ghorasahan Panchayat Ward No. - 4 having lower marks i.e. 62% obtained in Matriculation, Bihar School Examination Board, Patna, whereas the petitioner having more marks i.e. 71.11% obtained in Matriculation, B.S.E.B. and the name of the petitioner was at Sl. No. 1 of the merit list and the name of the respondent no. - 10 was at the Sl. No. 7 of the merit list but the respondent no.- 10 has been appointed on the post of Tola Sewak and the petitioner has been deprived from his right and further direction may be given to appoint the petitioner on the post of Tola Sewak, in Ghorasahan Panchayat Ward No.-4, East Champaran.

3. The “Tola Sewak” is appointed under the scheme on contract basis for one year and the post of “Tola Sewak” is not a statutory post and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court in a similar matter of Tola Sewak in C.W.J.C. No. 18107 of 2016 (Raj Choudhary vs. The State of Bihar and Ors.) 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 whereunder it has been held that since the selection or engagement or hiring of the Tola Sewak 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 Sewak 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 Sewaks are not maintainable. Having regard to the aforesaid judgments rendered by a Co-ordinate 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. The order passed by Co-ordinate Bench presided over by Hon’ble Single Judge in the aforesaid writ application has been affirmed by Division Bench of this Court holding that writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of this Court and the fact that “Tola Sewak” does not hold civil post as



well as the same is not a statutory post, I also come to the conclusion that writ application is not maintainable.

7. This application is accordingly dismissed.

8. However, the petitioner is given liberty to take recourse to such other remedy as is available under the law.

(Anil Kumar Sinha, J)

praful/-

U			
---	--	--	--

