

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15189 of 2019

1. Md. Ahamad Ali S/o Md. Tahirusaain Vill.- Chandi, P.o.- Ajhaul, P.s.- Bahadurpur, Distt.- Darbhanga
2. Md. Shakil S/o Md. Quasim Vill.- New Abhanda, Ward No. 40, P.o.- Leharyasarai, P.s.- Leharyasarai, Distt.- Darbhanga
3. Md. Sakir Hussain S/o Abdul Kadir Vill. and P.o.- Taralahi, P.s.- Bahadurpur, Distt.- Darbhanga
4. Md. Rizawan Ali S/o Md. Isha Rain Vill.- Chandi, P.o.- Ajhaul, P.s.- Bahadurpur, Distt.- Darbhanga
5. Naseema Khaton D/o Md. Suleman Ansari Vill.- Dildarganj, P.o.- Leharyasarai, P.s.- Leharyasarai, Distt.- Darbhanga
6. Md. Saidul Mansuri S/o Md. Salim Mansuri Vill.- Gopipatti, P.o.- Petar, P.s.- Anandpur, Distt.- Darbhanga
7. Azad Ahmad S/o Md. Sfiuddin Vill. and P.o.- Ratanpur, P.s.- Moro, Distt.- Darbhanga
8. Md. Alauddin S/o Md. Shabbir Vill. - Shahpur, P.s.- Distt.- Darbhanga
9. Jinat Perveen D/o Md. Nijamuddin Vill. and P.o.- Taralahi, P.s.- Bahadurpur, Distt.- Darbhanga
10. Md. Mumtaz Alam S/o Late Md. Shafique Uddin Vill.- Puraini P.o.- Gordaur, P.s.- Salkhua, Distt.- Saharsa
11. Md. Noor Alam S/o Md. Tabib Uddin Vill.- Puraini P.o.- Gordaur, P.s.- Salkhua, Distt.- Saharsa
12. Md. Zeeshan Siddique S/o Md. Nizim Siddiquee Vill.- Pahlam Ward No. 14, P.s.- Salkhua, Distt.- saharsa
13. Mosuf Zaya S/o Md. Tasir Ahmad Vill.- Harewa, Ward No. 14, P.s.- Salkhua, Distt.- Saharsa
14. Seraj Ahmad S/o Noor Alam Vill.- Ward No. 14, Ghordaur, P.s.- Salkhua, Distt.- Saharsa
15. Zulekha Bano W/o Md. Tanweer Alam Vill.- Ward No. 04, Ghordaur, P.s.- Salkhua, Distt.- Saharsa
16. Badrun Nisha W/o Md. Mahboob alam vill.- Ward no. 04, Ghordaur, P.s.- Salkhua, Distt.- Saharsa
17. Md. Rizwan Alam S/o Md. Abul Kalam Vill.- Ranibag Bhatta Tola, P.s.- Bakhtiyarpur, Distt.- Saharsa
18. Md. Atahar Hussain S/o Md. Asgar Ali Vill.- Chikani, P.o.- Rahua, P.s.- Saurbazar, Distt.- Saharsa
19. Syed Raza Ashraf S/o Syed Zamir Ashraf Vill.- Chak, Ward No. 1, Simiri, P.s.- Bakhtiyarpur, Distt.- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Govt. of Bihar, Patna



2. The Principal Secretary Department of Education, Govt. of Bihar, Patna
3. The Secretary Department of Education, Govt. of Bihar, Patna
4. The Director Department of Education, Govt. of Bihar, Patna
5. The Director Mass Education cum Joint Secretary, Govt. of Bihar, Patna
6. The District Magistrate Aurangabad
7. The District Education Officer Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Anil Kumar, Advocate
For the Respondent/s : Mr.Kameshwar Kumar (GP 17)

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT**

Date : 02-01-2024

1. Heard learned Counsel for the parties concerned.
2. The present writ application has been filed seeking following reliefs :-

“(i) For issuance of an appropriate writ commanding the respondents to give the honorarium fee to the petitioners from the year 2013 till date.

(ii) For issuance of an appropriate writ commanding the respondents to reinstate the services of the petitioners on the post of Swayam Sewak/ Talmi Markaj because no termination letter has been issued to the petitioners till date. ”

3. The Talimi Markaz Shikshak Swayam Sevi is appointed under the scheme on contract basis for one year, as was done in the case of Tola Sewak and the post of Talimi



Markaz Shikshak Swayam Sevi is not statutory and no recruitment rules are followed for their appointment.

4. A Co-ordinate Bench of this Court, in the matter of Tola Sewak, in ***C.W.J.C. No. 18107 of 2016 (Raj Choudhary v. The State of Bihar and others)***, 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 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. However, liberty is granted to the petitioner to take recourse to such other remedies as are available under the law.”

5. The aforesaid order passed by a co-ordinate Bench of this Court presided over by Hon'ble Single Judge in the case of **Raj Choudhary (supra)** has been affirmed by a Division Bench of this Court holding that the said writ petition is not maintainable.

6. Taking into consideration the aforesaid judgment of a co-ordinate Bench of this Court and the fact that Talimi Markaz Shikshak Swayam Sevi does not hold civil post as well as the same is not a statutory post, I also come to the conclusion that the present writ application is not maintainable and accordingly, the same is dismissed.

(Anil Kumar Sinha, J)

rinkee/-

| | |
|-------------------|------------|
| AFR/NAFR | NAFR |
| CAV DATE | NA |
| Uploading Date | 03.01.2024 |
| Transmission Date | NA |

