

**(2024) 01 PAT CK 0012**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 16204 Of 2019

Md. Zakir Hussain

APPELLANT

Vs

State Of Bihar

RESPONDENT

**Date of Decision :** 04-01-2024

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation :** (2024) 01 PAT CK 0012

**Hon'ble Judges :** Anil Kumar Sinha, J

**Bench :** Single Bench

**Advocate :** Alka Verma, Shilpa Singh

**Final Decision :** Dismissed

## Judgement

1. Heard learned Counsel for the parties concerned.

2. The present writ application has been filed seeking following relief :-

"(i) For issuance of direction/ directions, order/ orders commanding upon the respondents to make fresh appointment of Shiksha Swayamsewak of Talimi Markaz of Prathmik Maktab, Bhelha, Khutauna, Madhubani after setting aside the illegal appointments of the respondents no. 10 and 11 and take appropriate action against the respondents who have made these appointments without following the guidelines."

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?. 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.