

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1347 of 2014

IN

Civil Writ Jurisdiction Case No. 1634 of 2014

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Ritesh Kumar, son of Sri Tejnarayan Singh, resident of village - Tetarabad
Chandpur, Police Station - Khagaria, District - Khagaria.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Govt. of Bihar, Patna.
2. The District Magistrate, Khagaria.
3. The District Education Officer, Khagaria.
4. The District Programme Officer (Establishment), Khagaria.
5. The Block Development Officer, Khagaria, Dist - Khagaria.
6. The Panchayat Secretary, Gram Panchayat Raj, Uttari Madar, Dist. - Khagaria.
7. Sri Ram Bahadur Prasad S/o Late Kamleshwari Prasad Thakur resident of village
and P.O. Rasouk, Dist. Khagaria.
8. The District Teachers Employment Appellate Authority, Khagaria.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad Sah

For Respondent no.1 to 6 : Mr. Rakesh Kumar Singh, AC to GP III

For Respondent no. 7 : M/s Ashutosh Kumar, Anil Chandra, Rajani
Kant Pandey

For the Intervenors : M/s Rajeev Roy, Sunil Prasad Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 08-07-2015

I A No. 7460 of 2014

This interlocutory application under Section 5 of the
Limitation Act is filed with a prayer for condonation of the delay of
185 days in preferring the appeal.

In view of the reasons mentioned in this application

and submissions made in support thereof, this application is allowed. The delay in preferring the appeal is condoned.

I A No. 7460 of 2014 stands disposed of.

LPA No. 1347 of 2014

This appeal is preferred against the judgment dated 13.2.2014 passed by the learned Single Judge in CWJC No. 1634 of 2014.

Appointment to the post of Panchyat Teacher in an institution at Tetarabad Chandpur in the district of Khagaria took place in the year 2010. The appellant, 7th respondent and various others submitted their applications. The appellant was selected as a Teacher.

The 7th respondent preferred an appeal before the District Teachers Employment Appellate Tribunal, Khagaria, 8th respondent, challenging the appointment of the appellant herein. It was pleaded that the certificate of Intermediate produced by the appellant is not proper and is from an unrecognized institution. The 8th respondent allowed the appeal by taking the view that Nababharat Shiksha Parishad, Orissa, which issued the certificate to the appellant, is not recognized by the State of Bihar. In the writ petition, the appellant pleaded that on earlier occasion, similar question was raised by another teacher while challenging his appointment was rejected, and that this fact was brought to the notice of the 8th respondent by filing a review application, the same was rejected.

The learned Single Judge dismissed the writ petition. In addition to that, a direction was issued to the effect that such of the teachers who have been appointed on the basis of certificates issued by Nababharat Shiksha Parishad, Orissa, shall also be removed from service and steps in this regard shall be taken by the Director, Primary

Education.

Interlocutory Application No. 8621 of 2014 is filed by a teacher at the same place, with a prayer to implead him as party in this appeal.

Heard Shri Rajendra Prasad Sah, learned counsel for the appellant and learned counsel for the respondents.

From the order passed by the 8th respondent and from the order in the writ petition, it is evident that there is no definite stand of the Government or the appointing authority that Nababharat Shiksha Parishad, Orissa, is not a recognized institution in the context of issuing certificates for the Intermediate post. Unless an authoritative stand is taken in this behalf, it is not at all advisable to unsettle the appointments of the persons who held such certificates.

On this short ground, we allow the appeal and set aside the order passed in the writ petition. We also allow the writ petition and set aside the orders passed by the 8th respondent, subject to the condition that continuance of the appellant or other persons who are appointed on the basis of certificates issued by Nababharat Shiksha Parishad, Orissa, shall be subject to further verification by the competent authority. In the event of appellant being found to be not qualified to be appointed as a Teacher, the 7th respondent shall be considered against the vacancy.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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