

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1285 of 2014

In

Civil Writ Jurisdiction Case No. 9065 of 2012

With

Interlocutory Application No.7062 of 2014

And

Interlocutory Application No. 9341 of 2014

In

Letters Patent Appeal No.1285 of 2014

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Gunjan Kumari d/o Sri Shyam Kishore Yadav, resident of village - Sarhd,
P.O. Puraini, Block Kumar Khand, District - Madhepura

.... Respondent- Appellant/s

Versus

1. The State of Bihar.
 2. The Principal Secretary, Human Resources Development Department,
Govt. of Bihar, Patna.
 3. The Director Primary Education, Human Resources Development
Department, Govt. of Bihar, Patna.
 4. The District Magistrate, Madhepura.
 5. The District Education Officer, Madhepura.
 6. The Block Education Extension Officer, Kumarkhand Block,
Madhepura.
 7. The Mukhiya, Puraini Gram Panchayat, Kumarkhand Block,
Madhepura.
 8. The Panchayat Secretary, Puraini gram Panchyat, Block Kumarkhand,
District-Madhepura.
 9. The District Teacher's Appointment Appellate Tribunal, Madhepura.
- Respondents-Respondent/s
10. Manoj Kumar, son of Sri Satto Yadav, resident of village Rahika Tola,
Ward No.12, P.O. Jorgama, P.s. Murliganj, District-Madhepura.

... Petitioner-Respondent.

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Senior Advocate
Mr. Navjot Yesu, Advocate

For the Respondent-State : Mr. Sunil Kumar, A.C. to A.A.G.-6

For the respondent no.10 : Mr. Pranav Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 08-01-2015

Interlocutory Application No.7062 of 2014

This application under Section 5 of the Limitation Act is filed with a prayer to condone the delay of 80 days in preferring the Letters Patent Appeal against the order dated 09.05.2012 passed by the learned Single Judge in CWJC No.9065 of 2012. In the application, it is stated that the delay occurred on account of correspondences between the appellant and his counsel and gathering the records.

No counter affidavit is filed by the contesting respondent opposing the application.

We are satisfied with the reasons assigned for the belated filing of the Letters Patent Appeal.

The interlocutory application is, accordingly, ordered and the delay is condoned.

Letters Patent Appeal No.1285 of 2014

This appeal under Letters Patent is filed against the order dated 09.05.2012 passed by the learned Single Judge in CWJC No.9065 of 2012. Respondent No.10 in the writ petition

is the appellant.

The 10th respondent herein filed the writ petition challenging the order dated 31.01.2012 passed by the District Teachers Employment Appellate Tribunal, Madhepura-the 9th respondent herein (for short, 'the Tribunal') and the writ petition was disposed of by granting relief.

The facts in brief are as under:

The steps were initiated for appointment of teachers in the school at Purani Gram Panchayat of Madhepura District-the 7th respondent herein. The appellant, the 10th respondent and several others submitted applications. The appellant was appointed as teacher through order dated 30.12.2010. Some other teachers were also appointed. A batch of appeals had been preferred before the Tribunal. The appeal preferred by the 10th respondent was numbered as Miscellaneous Appeal No.02 of 2011. Through a common order dated 31.01.2012, the Tribunal has set aside the appointment of various teachers on the ground that the meritorious candidates were not served with notice properly. So far as Miscellaneous Appeal No.02 of 2011 filed by the 10th respondent is concerned, it was dismissed on the ground that he did not pursue the matter ever since it was filed. The 10th respondent challenged the order of the Tribunal insofar as it

concerns Miscellaneous Appeal No.02 of 2011. The learned Single Judge disposed of the writ petition holding that the case of the 10th respondent for selection and appointment shall also be considered after notice to all the candidates, implying thereby that the appointment of the appellant herein is vitiated. Hence, this appeal.

Heard Mr. Navjot Yesu, learned counsel for the appellant and Mr. Pranav Kumar, learned counsel for the 10th respondent.

It is no doubt true that in a batch of appeals presented before the Tribunal, the Tribunal recorded a finding to the effect that the selections were not done properly and meritorious candidates were not served with notice. However, the appeal preferred by the 10th respondent was dismissed for default. Even if this Court is satisfied that there existed sufficient cause for the 10th respondent in not pursuing the remedy, the maximum that could have been done is that the appeal could have been restored and the Tribunal would be required to hear the matter afresh and dispose it of. However, the learned Single Judge granted relief as that the appeal of the 10th respondent is allowed. We find it difficult to sustain the same.

We, therefore, allow this appeal and set aside the

order dated 09.05.2012 passed by the learned Single Judge in CWJC No.9065 of 2012. In its place, we grant the relief to the extent that the order dated 31.01.2012 passed by the Tribunal insofar it dismissed the Miscellaneous Appeal No.02 of 2011 is set aside and the said appeal is restored to its file. The Tribunal shall hear the matter afresh and pass order on merits within a period of two months from today. The appellant and the 10th respondent shall appear before the Tribunal on 20th of January 2015.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(I. A. Ansari, J)

Sunil/-

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