

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 74 of 2015

IN

Civil Writ Jurisdiction Case No 1196 of 2010

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Sarika Mishra W/O Rajesh Mishra R/O Village - Mahuawa, P.S. - Shikarpur,
Distt. - West Champaran, Bihar

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary Department of Primary And Adult Education, Govt. Of Bihar, Patna
3. The District Magistrate - Cum - Chairman Bihar Siksha Pariyojana, West Champaran, Bettiah
4. The Deputy Development Commissioner West Champaran, Bettiah
5. The District Superintendent of Education West Champaran
6. The Regional Education Officer Narkatiyaganj, West Champaran
7. The Block Education Extension Officer Narkatiyaganj, P.S. - Narkatiyaganj, Distt. - West Champaran, Bettiah
8. The Headmaster Primary Middle School Mahuawa, P.S. - Narkatiyaganj, Distt. - West Champaran, Bettiah

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Bimal Kr & Upadhyay Saurabh Kr. Advocates

For the Respondent/s : Mr Roy Shivajee Nath, AAG 3
 Mr Amarendra Kumar

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 10-09-2015

Heard the learned counsel for the appellant.

2 Delay in filing the appeal is condoned. IA No 305

of 2015 stands disposed of.

3 Heard, with consent, on merit.



4 The appellant contended that she had been selected and appointed as Shiksha Mitra. She continued to work as Shiksha Mitra when the new Rules came with effect from 01.07.2006 absorbing all Shiksha Mitras and making them permanent Panchayat Teachers. She had earlier come to this Court as well. This Court remanded the matter to the Collector of the district to enquire and pass necessary order. The Collector of the district held that in fact her appointment as Shiksha Mitra being contractual and for a period of eleven months, she did join and underwent training but, thereafter, she abandoned her work. It is only after the new Rules came that she subsequently, in September 2006, tried to join. In connivance with the school authorities, she also showed her joining in or around 27th of June, 2006 and filled in her attendance. The Collector found this to be contradictory because on one hand, she is giving her joining in September 2006 and then she is showing that she was teaching from the end of June, 2006. He has, thus, not believed her assertion that she was working as Shiksha Mitra when the new Rules came. The Collector has further ordered for prosecution of various persons involved in this case.

5 The learned Single Judge, noticing the facts aforesaid, clearly held that petitioner's case does not inspire confidence and refused to exercise his discretion. He dismissed the

writ petition, hence the appeal.

6 Let it be noted that we are sitting in judicial review. We are not sitting as appellate authority. Court, exercising jurisdiction under Article 226 of the Constitution, exercises powers of judicial review to review whether procedural safeguards have been followed and it does not sit in appeal over the judgment itself. When the learned Single Judge refused to exercise his discretion in the matter which decision is neither perverse nor arbitrary, in Letters Patent Appeal, we would not interfere.

7 This appeal is devoid of merit and is dismissed accordingly.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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