

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.6 of 2014
IN
Civil Writ Jurisdiction Case No. 5675 of 2010**

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Nilam Kumari, D/O Sri Brahmdeo Prasad & W/O Salendra Kumar, resident of
Village - Shairapur, P.O. Bhadru, P.S. Chandi, District - Nalanda

.... Appellant

Versus

1. The State Of Bihar
2. The Secretary, Health Department, Govt. Of Bihar, Patna
3. The Civil Surgeon - Cum - Chief Medical Officer, Nalanda
4. The Additional Chief Medical Officer, Nalanda
5. The In-Charge Medical Officer, Primary Health Centre, Asthawan, District –
Nalanda

.... Respondents

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Appearance :

For the Appellant	:	Mr. U.B. Roy, Advocate Mr. V.P. Singh, Advocate Mr. Binit Kumar, Advocate
For the State	:	Mr. Manoj Kumar Ambastha, G.P.-14 Mr. Subodh Kumar, A.C. to G.P.-14
For N.C.I	:	Mr. S.N. Pathak, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 05-05-2015

The appellant was appointed as ANM (Auxillary Nurse Midwifery) in the Health Department of the Government of Bihar in the year 1986. Disciplinary proceedings were initiated against her in the year 2001 alleging that she has been admitted into the Government Nursing School against the seat earmarked for S.C. category, though she belonged to



B.C. category. Since the petitioner denied the allegation, a departmental enquiry was conducted. The enquiry officer submitted a report holding the charges levelled against her, as proved. Thereafter, the second show cause notice was issued. The disciplinary authority passed the order dated 25.7.2001 dismissing the appellant from service.

2. The appellant filed CWJC No.11185 of 2001 before this Court challenging the order of dismissal. The writ petition was disposed of, through order dated 1.12.2009, setting aside the order of dismissal, leaving it open to the appellant to submit a fresh explanation to the notice, after perusing the record, which the disciplinary authority was required to make available to her. A time-frame was also fixed in this regard.

3. Alleging that the appellant did not turn up to file representation, as directed by the High Court, the disciplinary authority passed the order dated 8.1.2010 informing her that the order of punishment

shall remain in force. The appellant filed CWJC No.5675 of 2010 challenging the said communication. The learned single Judge dismissed the writ petition, through order dated 26.4.2013. Hence, this appeal.

4. Heard Shri U.B. Roy, learned counsel for the appellant, Shri Manoj Kumar Ambastha, learned Government Pleader No.14 for the State and Shri S.N. Pathak, learned counsel for the N.C.I.

5. The basis for initiating the disciplinary proceedings against the appellant was that she committed fraud in getting admission into the Government Nursing School against the seat reserved in favour of S.C. candidate. Charge levelled is serious in nature. In case the petitioner wanted to deny the charge, she could have obtained the certificate from institution or to demonstrate that she possessed requisite merit to be admitted against the seats available, for candidates of her social status. The information that was made available under R.T.I. Act, through communication dated 26.7.2013, discloses



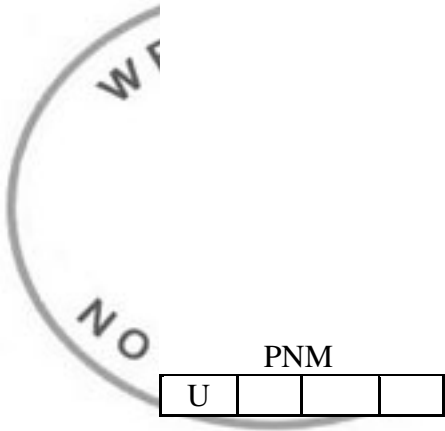
that the appellant was admitted in the Session of 1986-87, against the seat that was reserved in favour of S.C. candidate. Though this Court granted adequate opportunity to the appellant to represent the case before the disciplinary authority, she did not avail the opportunity. Learned counsel for the appellant is not able to demonstrate that the appellant was not admitted against the seat earmarked for S.C. candidates, in the Nursing Course. Once it emerges that the petitioner is a B.C. candidate and has taken admission against seat earmarked for S.C. on the basis of false certificate, it cannot be said that that disciplinary authority has committed any error, factual or legal.

6. We do not find any basis to entertain the appeal. It is, accordingly, dismissed. However, we direct that the respondents shall not initiate any criminal action against or recover any amount from, the appellant. It is also directed that in case the appellant seeks employment in any other institution,

her dismissal be not treated as disqualification.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)



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