

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.290 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 13187 of 2010**

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Chandni Kumari, W/o Ram Shanker Prasad, R/o Village - Karn Kudariya, P.O.
Dumarsan Bangra, P.S. - Masrakh, Distt. - Saran

.... Appellant

Versus

1. The State of Bihar
2. The Collector, Saran
3. The District Superintendent of Education, Saran at Chapra
4. Block Development Officer, Masrakh, P.O. And P.S. - Masrakh, Distt. - Saran
5. Gram Panchayat, Karn Kudariya through the Mukhiya Village - Karn Kudariya, P.S. Masrakh, Distt. - Saran
6. Mukhiya, Gram Panchayat Karn Kudariya Village - Karn Kudariya, P.S. Masrakh, Distt. - Saran
7. Panchayat Sachiv, Gram Panchayat Karn Kudariya, Village - Karn Kudariya, P.S. Masrak, Distt. - Saran
8. Member, Zila Shikshak Niyojan Appealiya Pradhikar at Chapra
9. Sanjeet Kumar, S/o Kanhaiya Prasad, R/o Village- Karn Kudariya, P.O. - Dumarson Bangra, P.S. Masrakh, Distt. - Saran

.... Respondents

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Appearance :

For the Appellant : Mr. Rajendra Prasad Singh, Sr. Advocate.

Mr. Rajeev Kumar Singh, Advocate.

For Respondent No. 9 : Mr. Rohan Priyam Sahay, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 05-05-2016

Re.: I.A. No. 1251 of 2015

The application is for condonation of delay of 26 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellant has shown sufficient cause to seek condonation of delay of 26 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 1251 of 2015 is allowed and delay of 26 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 290 of 2015

Heard learned counsel for the appellant and the respondents.

2. The order dated 18th of November, 2014 passed by the learned Single Bench of this Court in C.W.J.C. No. 13187 of 2010 is subject matter of challenge in the present Letters Patent Appeal, whereby appointment of the appellant as Panchayat Teacher against the category of Extremely Backward Class was set aside.

3. The 14 posts of Panchayat Teachers in Karn Kudariya Gram Panchayat were directed to be filled up by the District Superintendent of Education on 28th of September, 2006. A copy of the said letter has been attached by the appellant as

Annexure-R9/A. Four posts out of the 14 posts are meant for the General Category; 3 for General Female; 1 for Extremely Backward Class; 1 for Extremely Backward Class Female; 1 for Scheduled Caste; 2 for Scheduled Caste Female; 1 for Backward Class and 1 for Backward Class Female. The said letter also points out that Roster Point 67 to 80 has been assigned to Gram Panchayat Karn Kudariya. As per the Roster Point the candidates are required to be appointed. It reads as under:-

Roster Point	Category
67	UR
68	SC(F)
69	UR(F)
70	EBC(F)
71	UR
72	BC(F)
73	UR(F)
74	SC
75	UR
76	EBC
77	UR(F)
78	SC(F)
79	UR
80	BC

4. There are three candidates who are competing for two posts of Extremely Backward Class Category, two female and one male.
5. The percentage of marks obtained by the three

candidates is as under:-

Nirmala Kumari	:	67.20%
Sanjeet Kumar	:	66.66%
Chandani Kumari	:	61.11%

6. Nirmala Kumari and the appellant were appointed against the post meant for Extremely Backward Class Category. Such appointment was upheld by the District Teachers Appointment Appellate Authority on 13th of May, 2010. It is the learned Single Bench who has set aside the appointment of Respondent No. 9- now the appellant and ordered the writ petitioner Sanjeet Kumar to be appointed against the second post of Extremely Backward Class Category.

7. A perusal of the writ application shows that initially roster was framed vide letter dated 30th of September, 2002 wherein Roster Point No. 70 and 76 were reserved for Extremely Backward Class Category but in terms of Rule 5 of Bihar Panchayat Elementary Teachers (Appointment and Service Conditions) Rules, 2006, 50% of the posts are reserved for female candidates. It is in terms of Rule 5, the roster was circulated which has been appended by the appellant as Annexure-R9/A. As per the roster, the first post of Extremely Backward Class Female falls at Roster Point No. 70 and the second post of Extremely Backward Class falls at Roster Point

No. 76. In view thereof, Nirmala Kumari, the candidate who is higher in merit occupies the Roster Point No. 70 meant for Extremely Backward Class Female whereas Roster Point No. 76 meant for Extremely Backward Class will be filled up on merit i.e. by Sanjeet Kumar. Chandni Kumari, the appellant cannot get appointment against the second post of Extremely Backward Class as the Extremely Backward Class Female stands appointed against Roster Point No. 70. The roster specifies as to which post is reserved for female and which are for Extremely Backward Class. The appointments have to be made as per the said roster alone.

8. In view thereof, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

9. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Anand
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