

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.986 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 15510 of 2010

Along with

Interlocutory Application No.4111 of 2015

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1. Shashi Shekhar Kumar, Son of Dukhan Paswan, Resident of Village & P.O.- Babhangama, P.S.- Behariganj, District- Madhepura.
 2. Manoj Kumar, Son of Kapil Dev Prasad, Resident of Village & P.O.- Fatehpur, P.S.- Behariganj, District- Madhepura.

.... Petitioners- Appellants

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The District Teachers Appointment Appellate Authority Madhepura through its Secretary.
4. The District Magistrate, Madhepura.
5. The District Superintendent of Education, Madhepura.
6. The Block Education Extension Officer, Behariganj Block, District- Madhepura.
7. The Block Development Officer, Behariganj Block, Madhepura.
8. The Mukhiya, Gram, Panchayat Babhangama, Block- Behariganj, District- Madhepura.
9. The Panchayat Secretary, Gram Panchayat Babhangama, Block- Behariganj, District- Madhepura.
10. Leena Kumari, W/o Sri Shailendra Kumar, at present posted as Shiksha Mitra, Girls Middle School, Rajni Babhangama, P.S. - Behariganj, District- Madhepura.
11. Chandan Paswan, son of Sri Nageshwar Paswan, at Present posted as Shiksha Mitra, Girls Middle School, Rajni Babhangama, P.S. & Block- Behariganj, District- Madhepura.
12. Rinku Kumari, W/o Sri Mukesh Kumar Mukund, at present posted as Shiksha Mitra, Girls Primary School, Rajni Babhangama, P.S.- Behariganj, District- Madhepura.
13. Indula Kumari, W/o Sri Siya Ram Yadav, at present posted as Shiksha Mitra, Primanry School, Fatehpur, P.S.- Bihariganj, District- Madhepura.
14. Mukesh Kumar, S/o Sri Nawal Kumar Yadav, at present posted as Shiksha Mitra, Primary School, Fatehpur, P.S.- Bihariganj, District- Madhepura.

.... Respondents- Respondent/s

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Appearance :

For the Appellants : Mr. Shanti Pratap, Advocate
Mr. Arvind Kumar Varma, Advocate
For the Respondents-State : Mr. Nadeem Seraj- G.P.5

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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: 15-09-2016

Re.: Interlocutory Application No.4111 of 2015

The application is for condonation of delay of 123 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.986 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 14th of November, 2014 whereby, the writ application filed by the appellant was dismissed in view of the Full Bench judgment of this Court in Kalpana Rani Versus the State of Bihar & Ors, 2014(2) PLJR 665.

The private respondents were appointed as Shiksha Mitra on 08.08.2005. Earlier, the appellants filed a writ application before this Court bearing CWJC No.13931 of 2006 which was decided on 1st of June, 2007 with liberty to the appellants to file representations which were directed to be decided by the concerned District



Magistrate. The District Magistrate declined the claim of the appellants on 30th November, 2007. The appellants challenged the said order by way of CWJC No.3086 of 2009 which was disposed of with liberty to the appellants to avail the remedy of appeal. In pursuance of such order, the appeal has since been decided on 28th of July, 2010 by the District Teachers Appointment Appellate Authority (hereinafter referred to as 'the Authority'). The challenge to the said order remained unsuccessful before the learned Single Bench.

The appellants are seeking appointment as Shiksha Mitra though such post ceases to be in existence after the commencement of the Bihar Panchayat Elementary Teachers (Appointment and Service Conditions) Rules, 2006. The Full Bench of this Court in Kalpana Rani's case (supra) has held that no relief can be granted to the petitioners as they were not working as Shiksha Mitra on the appointed day, i.e. on 1st of July, 2006.

In view of the Full Bench judgment of this Court, the appellants cannot be appointed as Shiksha Mitra as such posts ceases to be in existence. The appellants cannot be appointed as Shiksha Mitra even if the prayer of the appellants for setting aside the appointment of private respondents is allowed. Therefore, we do not think that any public purpose is served by interfering with the process of appointment after long lapse of time.

In view thereof, we do not find any merit in the present Letters Patent Appeal. The same is, therefore, dismissed.



(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F.R.
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