

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.970 of 2015**  
**Arising out of**  
**Civil Writ Jurisdiction Case No. 3261 of 2010**  
**Along with**  
**Interlocutory Application No.4044 of 2015**

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Nooral Amin, son of Md. Hussain, resident of Village Kothia, P.S.- Khajauli,  
District-Madhubani.

.... .... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. District Magistrate, Madhubani.
3. District Superintendent of Education cum District Programme Coordinator,  
Bihar Education Project, Madhubani.
4. Block Development Officer, Khajauli, District- Madhubani.
5. Headmaster, R.P. Maktab, Kothia, Khajauli, District- Madhubani.
6. Mukhia, Gram Panchayat Raj Beta Kakarghati, Block Khajauli, District-  
Madhubani.
7. Panchayat Secretary, Gram Panchayat Raj Beta Kakarghati, Block Khajauli,  
District- Madhubani.

.... .... Respondents-Respondent/s

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**Appearance :**

For the Appellant : Mr. Prabhakar Singh, Advocate  
For the Respondents-State : Mr. Anjani Kumar, A.A.G.-4  
Mr. Sanjay Pd., A.C. to A.A.G.-4

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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: 14-09-2016**

Re.: Interlocutory Application No.4044 of 2015.

The application is for condonation of delay of 1 year and  
300 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.970 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 25<sup>th</sup> of April, 2013 whereby, the writ application filed by the appellant for directing the respondents to pay salary for the period of the work done on the post of a Panchayat Teacher, remained unsuccessful.

The appellant was selected as Shiksha Mitra on 18.05.2003 and was allotted P. V. Thenga North School. The appointment of the appellant was on contract, i.e. up to 31<sup>st</sup> of December, 2003 which is evident from Annexure-1 appended by the appellant along with the writ application. As per the appellant, he was not permitted to join, when he went to the School allotted. It was in response to the communication of the Mukhiya dated 17<sup>th</sup> of August, 2005, the Block Education Officer permitted the Gram Panchayat to permit the joining of the appellant as Shiksha Mitra on 18.10.2008. The claim of the appellant is for payment of salary after the said date.

In the counter affidavit filed on behalf of the District Programme Officer (Establishment), Madhubani, it is, *inter alia*, asserted that the appellant was appointed on contract basis and that contract ended on 31<sup>st</sup> of December, 2003, therefore, the appellant cannot be continued as Panchayat Teacher. It is pointed out that on



commencement of Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 (hereinafter referred to as 'the Rules'), the posts of Shiksha Mitra were abolished and since the appellant was not working on the post of Shiksha Mitra on the appointed day, therefore, he cannot claim post of Panchayat Teacher as such post is required to be filled up in terms of the Rules. It is also averred that in fact, the wife of the appellant is posted as Headmistress in Rajkiya Prathmik Maktab Kothia School and she has managed the joining of the appellant.

We have heard learned counsel for the parties and find that the appellant has no claim for appointment as Panchayat Teacher on 18.10.2008. Firstly, the appointment of the appellant as Shiksha Mitra was on contract basis and that contract ended on 31<sup>st</sup> of December, 2003. There could not be any permission to join thereafter on a different post, i.e. Panchayat Teacher, without facing any selection process. The post of Shiksha Mitra came to be abolished when the Rules came into force with effect from 1<sup>st</sup> of July, 2006. Since the appellant was not working as Shiksha Mitra prior to 1<sup>st</sup> of July, 2006, therefore, he could not furnish fresh joining report and that too in the year 2008 against which the appellant was not a candidate. Since the alleged joining of the appellant on 18.10.2008 was not warranted in law, the State Government cannot be directed to pay any salary for the

alleged work done by him.

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.)**

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