

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1160 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 19830 of 2015**

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Tushar, Son of Pradip Kumar, Resident of Village - Sahwajpur, P.S. Tekari, District
- Gaya

.... Appellant

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Health Department, Government of Bihar, Patna
3. The Secretary, Bihar Public Service Commission, 15, Jawahar Lal Nehru Marg,
Bailey Road, Patna
4. The Joint Secretary-Cum-Examination Controller, Bihar Public Service
Commission, 15, Jawahar Lal Nehru Marg, Bailey Road, Patna.

.... Respondents

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Appearance:

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Advocate. Mr. Rajesh Kumar, Advocate.
For the State	:	Mr. Parijat Saurav, AC to AAG-10.
For BPSC	:	Mr. Sanjay Pandey, Advocate.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 23-11-2016

Re.: I.A. No. 855 of 2016

This application is for condonation of delay of 3 days
in filing the Letters Patent Appeal.

For the reasons mentioned in the Interlocutory
application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay of 3 days in filing the present
Letters Patent Appeal.

Consequently, Interlocutory Application No. 855 of

2016 is allowed and delay of 3 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 1160 of 2016

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench on 12.04.2016 relying upon another order passed by the Court on 30th March, 2016 in CWJC No. 18068 of 2015 (Dr. Hari Govind Prasad Vs. The State of Bihar and others).

Learned counsel for the appellant points out that L.P.A. No. 1019 of 2016 directed against the said order and other three appeals arising out of analogous cases stand allowed by the Division Bench on 04.10.2016. Therefore, the present order is liable to be set aside for the same reasons as are recorded in the aforesaid case.

Learned counsel for the Bihar Public Service Commission submits that the present appeal stands on different footing. There was undertaking from the candidate that he will produce his original Matriculation certificate, but in spite of undertaking, the Original matriculation certificate was not produced, therefore, he cannot draw any parity with the reasoning given in L.P.A. No. 1019 of 2016 and other analogous cases.

We find that the intent of the order is not dependent upon the undertaking given by the candidate to produce original Matriculation certificate. The findings of the Division Bench in Para

42 and 43 are as under:

“42. In the facts and circumstances of the case, we direct the Secretary of the Commission to recommend the names of the appellants, whose score is above the cut-off marks of their respective category, on the basis of which recommendation has been made to the State for appointment as General Medical Officers in the light of the advertisement, in question, after verifying the respective documents, in original, of these appellants.

43. So that no further confusion crops up, it is also directed that the certificates, in original, of the appellants as mentioned in paragraph 5 of the interview letter shall be required to be verified by the Commission or any Committee constituted for that purpose, if the appellants furnished their respective certificates, in original, personally to the Secretary of the Commission at any time between 10.30 A.N. and 4.30 P.M. within a fortnight from today along with a copy of the present order. The commission shall make recommendation to the State Government within a fortnight thereafter.”

In view of the said findings which are applicable to the facts of the present case with full force, the present letters Patent Appeal is disposed of in the same terms as in Letters Patent Appeal No. 1019 of 2016 and other analogous cases.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Mishra

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	26.11.2016
Transmission Date	