

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1225 of 2016

Arising out of

Civil Writ Jurisdiction Case No.6895 of 2013

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Kumari Manju Sinha, wife of Sri Guddu Singh, Resident of village and P.O. Madhavpur Govind, Police Station Chakiya, District - East Champaran.

.... Respondent- Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Education Department, Government of Bihar, Patna.
4. The District Magistrate, East Champaran at Motihari, District East Champaran.
5. The District Teacher Appointment Appellate Authority, East Champaran at Motihari, District East Champaran through the Presiding officer.
6. The District Education Officer, East Champaran at Motihari, District - East Champaran.
7. The District Programme Officer (Establishment), East Champaran at Motihari, District East Champaran.
8. The Block Development Officer, Kalyanpur, District East Champaran at Motihari.
9. The Block Education Officer, Kalyanpur, District East Champaran at Motihari
10. The Mukhiya Gram Panchayat Raj, Mani Chapra, Block - Kalyanpur, District East Champaran at Motihari.
11. The Panchayat Secretary, Gram Panchayat Raj, Mani Chapra, Block - Kalyanpur, District - East Champaran at Motihari.

... Respondents-Respondents.

12. Nitu Kumari, wife of Ranjan Kumar Singh, resident of village - Taraiyan, P.O. and P.S. Chakiya, District - East Champaran at Motihari.

.... Petitioner- Respondent/s

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Appearance :

For the Appellant : Mr. Jitendra Kumar Roy, Advocate
Mr. Sumit Kumar, Advocate.

For the Respondents-State : Mr. Shiv Kumar, A.C. to G.A.-3
For Respondent No.11 : Ms. Nikki Singh, Advocate
For Respondent No.12 : Mr. S. B. K. Manglam, Advocate
Mr. Pratyush, 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: 25-11-2016

The Challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 25th April, 2016 whereby, the appointment of the appellant was set aside for the reason that the Selection Committee was chaired by her husband and, therefore, there is likelihood of bias.

2. Learned counsel for the appellant vehemently argued that the Selection Committee for appointment of *Panchayat* Teacher has no discretion as the selection has to be made on the basis of pre-determined criteria as mentioned in Rule 9 (v) of the Bihar *Panchayat* Primary Teachers (Appointment and Service Conditions) Rules, 2006. The Rules contemplate determination of merits on the basis of marks obtained in Matric/Higher Secondary and Intermediate and also two years experience in B.L.D. Since the merit is to be prepared on the basis of pre-determined criteria, the presence of the husband of the appellant has not caused any prejudice to any candidate as there was

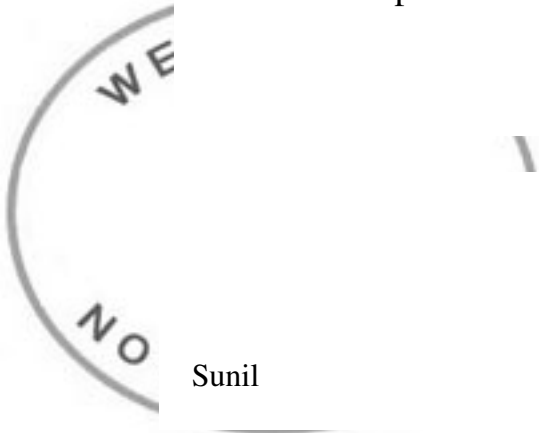
no discretion with her husband while making selection.

3. It is also contended that the presence of her husband was necessary as *ex-officio* member being the *Mukhiya* of the *Gram Panchayat* and, thus, keeping in view the doctrine of necessity, it cannot be said that the participation of the husband of the appellant has given unfair advantage to the appellant.

4. We have heard learned counsel for the parties and find no merit in the present appeal. Even in the face of pre-determined criteria, the Selection Committee was chaired by the husband of the appellant as *Mukhiya* of the *Gram Panchayat*. There cannot be any bias, but there is likelihood of bias. Things should always be done, which are above suspicion of any kind. Therefore, the participation of the husband of the appellant cannot be said to be fair process of selection for the post of *Panchayat Teacher*.

5. Still further, there is no application of doctrine of necessity in the present case. *Mukhiya* is one of the members of the Selection Committee and he chairs the meeting, but there are other four members. Even if the husband of the appellant recuses himself from the meeting, the meeting could have been continued with four other members present. The fact that the husband of the appellant participated in the selection process in which his wife was selected is sufficient to return a finding that it was a tainted selection.

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



(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil

AFR/NAFR	A. F. R.
CAV DATE	N. A.
Uploading Date	29.11.2016
Transmission Date	