

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1128 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 14797 of 2012
Along with
Interlocutory Application No.4744 of 2015

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Bijay Singh Yadav, S/o Sri Baban Singh @ Dindayal Singh, R/o village - Thakur Bigha, P.O. Osaon, P.S. Kachhawan, District – Rohtas.

.... Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate, Rohtas at Sasaram.
3. Deputy Development Commissioner, Sasaram in the Capacity of President of the Committee.
4. Officer - in - Charge of District Establishment and General Section as Co - Ordinator Member, Rohtas.
5. Deputy Supply Officer, Rohtas at Sasaram as Member of the Committee.
6. District Establishment Deputy Collector, Rohtas as Member.
7. Sub Divisional Police officer, Bikramganj as Member.
8. Sahmir Ansari, S/o Nezab Mian, Resident of village - Ibrahimpur, P.S. Kachhawan, District – Rohtas.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Subodh Kumar Sinha, Advocate

For the Respondent/s : Mr. Mukund Mohan Jha, A.C. to G.P.27

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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: 28-09-2016

Re.: Interlocutory Application No.4744 of 2015

The application is for condonation of delay of 2 years 53 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.1128 of 2015



The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 31st of January, 2013 whereby, the writ application filed by the appellant for issuance of writ of mandamus to consider the appellant for appointment to the post of Chowkidar of Circle No.8, Beat No.1, remained unsuccessful.

Initially, an advertisement was published for the appointment of Chowkidar in the newspaper on 4th March, 2001. The appellant was one of the candidates for such post. On the other hand, Sahmir Ansari, though applicant for another Beat, was appointed as Chowkidar of Circle No.8, Beat No.1. The appointment of Sahmir Ansari was challenged by the appellant through CWJC No.5154 of 2008 before this Court. The writ application was decided with a direction to the Collector to enquire into whether Sahmir Ansari was an applicant for the post of Chowkidar for Circle No.8 Beat No.1 pursuant to the advertisement published, and if he was not the applicant, he could not have been appointed. The Collector, Rohtas was directed to take an appropriate decision.

In pursuance of the said direction, the Collector passed an order on 04.05.2012 annulling the appointment of Sahmir Ansari, but constituted a Committee to consider the appointment of the appellant within one month. It appears that thereafter, it was decided that in the

meantime, the *Bihar Chowkidar Samvarga Niyamavali, 2006* has come into force; therefore, the vacancy shall be filled up in accordance with the said Rules.

The appellant was a candidate for appointment of Chowkidar in pursuance of an advertisement published on 4th of March, 2001. Though the appointment of Sahmir Ansari was cancelled on 04.05.2012, but in the meantime, *Bihar Chowkidar Samvarga Niyamavali, 2006* came to be enforced. Therefore, the appointment after the said Rules in force could be affected only in terms of the said Rules and not on the basis of advertisement which was published in 2001.

We do not find any error in the findings recorded by the learned Single Bench which may warrant interference in the present intra court appeal. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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CAV DATE	N. A.
Uploading Date	
Transmission Date	