

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.506 of 2015
Arising out
Civil Writ Jurisdiction Case No. 15663 of 2009
Along with
Interlocutory Application No.2277 of 2015

=====

Nasrin Begum, daughter of Abdul Fateh, resident of Village - Gajhot, Police Station - Post Office and Block - Azamnagar, Distt – Katihar.

.... Petitioner-Appellant

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Director (Primary Education) Govt. of Bihar, Patna
4. The District Magistrate, Katihar.
5. The Deputy Development Commissioner, Katihar.
6. The District Superintendent of Education, Katihar.
7. The District Education Officer, Katihar.
8. The Member, District Teachers Appointment Appellate Tribunal, Katihar.
9. The Sub Divisional Officer, Barsoi, Katihar.
10. The Block Development Officer, B lock - Azamnagar, Distt – Katihar.
11. The Block Education Extension Officer, Block - Azamnagar, Distt - Katihar
12. The Mukhiya Gram Panchyat Raj Jalki P.S & Block - Azamnagar, Distt – Katihar.
13. The Panchayat Secretary Gram Panchayat Raj Jalki, P.S & Block - Azamnagar, Distt – Katihar.
14. Rifat Parveen, D/O Mohmmad Iliyas, wife of Md. Waris Alam, resident of Dilsadpur, P.S - Balia - Belon, District- Katihar.

.... Respondents-Respondents

=====

Appearance :

For the Appellant : Mr. Md. Anisur Rahman, Advocate

For the Respondents : Mr. Manish Kumar, G.P.-8

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 23-06-2016

Re.: Interlocutory Application No.2277 of 2015

The application is for condonation of delay of 1 year, 7 months and 28 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.506 of 2015

The challenge in the present Letters Patent Appeal is to an order passed on 5th February, 2013 whereby an order passed by the District Teachers' Employment Appellate Tribunal, Katihar (hereinafter referred to as, 'the Appellate Tribunal') dated 7th of September, 2009 was set aside but still the appellant has not been ordered to be reinstated.

In pursuance of an advertisement issued by the Human Resources Development Department, Government of Bihar, respondent No.14 was appointed as Panchayat Teacher though she got lesser marks than the appellant. On the representation of the

appellant, the appointment of respondent No.14 was cancelled on 22nd October, 2007 and the appellant was appointed as Panchayat Teacher vide letter dated 22nd October, 2007. The appellant joined her duties on 28th of October, 2007.

The appointment of the appellant was challenged by respondent No.14 before this Court through CWJC No.15723 of 2007 which was withdrawn with a liberty to raise grievance before the Appellate Tribunal. The Appellate Tribunal set aside the appointment of the present appellant which order was found to be illegal by the learned Single Judge, but still the benefit of reinstatement was not granted to the appellant.

The fact which has been noticed by the Learned Single Judge is that respondent no.14 has since resigned and joined another Panchayat. Therefore, respondent no.14 is no longer competing with the appellant for the post of the Panchayat Teacher. Once respondent no.14 is not competing for the post of the Panchayat Teacher, the appellant, who joined on 28th of October, 2007 as Panchayat Teacher, is required to be reinstated as a natural consequence of respondent no.14 of giving up of her right, if any, against the post of the Panchayat Teacher of the concerned Panchayat. It may be noticed that the appellant has got higher marks than the respondent No.14 as well.

Consequently, we find that the order of the learned Single Bench of not granting the order of reinstatement to the appellant cannot be sustained.

Thus, the present Letters Patent Appeal is allowed. The appellant is ordered to be reinstated as Panchayat Teacher. She will be entitled to pay and allowances from the date she rejoins her post.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
Uploading Date	28.06.2016
Transmission Date	