

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1756 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 3941 of 2008

Along with

Interlocutory Application No.7884 of 2015

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Brahmdeo Yadav, son of Sri Mahavir Yadav, resident of village Simraha, P.S. Kusheshwar Asthan, District –Darbhanga.

.... Respondent-Appellant

Versus

1. The State of Bihar.
2. The Secretary, Primary and Adult Education, Government of Bihar, Patna.
3. The Commissioner, Darbhanga Division, Darbhanga.
4. The District Magistrate, Darbhanga.
5. The District Education Officer, Darbhanga.
6. The District Superintendent of Education, Darbhanga.
7. The Block Development Officer-cum- Circle Officer, Kusheshwar Asthan, PS Kusheshwar Asthan, Darbhanga.
8. The Block Education Extension Officer, Darbhanga.
9. The Mukhiya, Gram Panchayat Raj, Bisharia Mohim Bujurg, Kusheshwar Asthan, District- Darbhanga.
10. The Panchayat Sevak-cum- Panchayat Secretary, Gram Panchayat Bisharia Bujurg, Kusheshwar Asthan, District- Darbhanga.
11. The Head Master, Primary School, Mohim Bujurg, PS Kusheshwar Asthan, District- Darbhanga.

... ... Respondents.

12. Santosh Kumar Poddar, son of Lal Babu Poddar, resident of village Mohim, P.S.- Kusheshwar Asthan, District Darbhanga.

.... Petitioner.

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Appearance :

For the Appellant	:	Mr. Sanjay Singh, Advocate
		Mr. Ranjit Kumar Yadav, Advocate
For the Respondents-State	:	Mr. Vijay Kumar Verma, A.C. to G.A.-2

For the Respondent No.12 : Mr. Jagdish Pd. Singh, Advocate

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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: 29-09-2016

Re.: Interlocutory Application No.7884 of 2015

The application is for condonation of delay of 334 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.1756 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 13th August, 2014 whereby, an order passed by the Panchayat Secretary, Gram Panchayat Raj Bisheria Mohim Bujurg cancelling the appointment of the writ applicants in the light of the joint order dated 3rd January, 2008 passed by the Block Development Officer and Block Education Extension Officer, Kusheshwar Asthan was set aside. While setting aside the order, the learned Single Bench further ordered that the writ applicants shall be reinstated in service forthwith with all consequential benefits. The operative part of the order reads as under:

“The orders dated 04.02.2008 as contained in annexure-6 to both these applications are also quashed. These applications are, accordingly, allowed. This will be, however, without prejudice to the rights of respondents to proceed afresh in accordance with law. The petitioners shall be reinstated in service forthwith with all consequential benefits.”

The writ applicants along with the present appellant were the candidates for appointment to the post of Panchayat Teacher. The present appellant was appointed. Such appointment came to be disputed by the present writ applicants and one Md. Shamsul Hoda before the Block Development Officer. An enquiry was being conducted by the Block Development Officer. He has fixed, 11th January, 2008 as the date fixed for enquiry as per the writ applicants, but the Block Development Officer furnished the report on 3rd January, 2008 itself, therefore, the grievance of the writ applicants was that enquiry has been conducted against their back and, thus, not sustainable.

We find that after such finding that the writ applicants were not properly associated in the enquiry; there could not have been any direction to reinstate them. After such finding, the only natural consequence is to direct the appropriate authority to conclude the enquiry after giving adequate opportunity to the writ applicants and other affected persons. There could not be any direction to reinstate the writ applicants only because the enquiry conducted was not fair and

reasonable.

In view of the said fact, the order passed by the learned Single Bench on 13th August, 2014 is modified to the extent that the order of reinstatement of the writ applicants shall stand quashed. However, the official respondents shall proceed with the enquiry afresh and take appropriate decision in accordance with law.

With the aforesaid modification in the order, the Letters Patent Appeal stands disposed of.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F. R.
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