

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.580 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 1459 of 2011
Along with
Interlocutory Application No.2571 of 2015

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1. Rajeshwar Prasad. S/o Sri Ram Bilash Mahto. R/o Village - Mushharnia, P.S.- Sonbarsha, District - Sitamarhi.
 2. Rakesh Kumar. S/o Sri Ram Ekbal Mahto. R/o Village - Mushharnia, P.S.- Sonbarsha, District - Sitamarhi.

.... Respondents- Appellant/s

Versus

1. The State of Bihar, through the Principals Secretary, Human Resources Development, Government of Bihar, Patna.
2. The Director Primary Education Human Resources Development Government of Bihar, Patna.
3. The District Superintendent of Education Sitamarhi.
4. The Block Education Extension Officer Sonbarsa, Sitamarhi.
5. The Mukhia Gram Panchayat Raj, Purandaha Rajwara East, Sonbarsa, Sitamarhi.
6. The Secretary, Gram Panchayat Raj, Purandaha Rajwara East, Sonbarsa, Sitamarhi.
7. The Member, Appellate Authority District Teacher Employment, Sitamarhi.
8. Kumari Kasturi. D/o Sri Hiralal Sahu. R/o Village - Mushharnia, P.S.- Sonbarsha, District - Sitamarhi.

... ... Respondents-Respondents

9. Ram Pravesh Kumar. S/o Sri Bhikhari Mahto, R/o Village - Varita, P.S.- Sonbarsa, District - Sitamarhi.
10. Sarita Kumari, W/o Sri Umesh Kumar, R/o Village - Varita, P.S.- Sonbarsa, District - Sitamarhi.
11. Devendra Raut, S/o Late Saryug Raut, R/o Village - Mushharnia, P.S.- Sonbarsha, District - Sitamarhi.

.... Petitioners -Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar, Advocate

For the Respondent/s : Mr.

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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: 24-06-2016

Re.: Interlocutory Application No.2571 of 2015 of

The application is for condonation of delay of 08 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.580 of 2015

The order dated 9th of May, 2012 passed by the learned Single Bench of this Court is subject matter of challenge in the present Letters Patent Appeal. Vide the aforesaid order; the learned Single Judge has set aside the order passed by the District Teachers Employment Appellate Authority, Sitamarhi, (hereinafter referred to as, 'the appellate authority') annulling the appointment of the writ petitioners on the post of Panchayat Shiksha Mitra.

The writ petitioners were appointed as Panchayat Shiksha Mitra in the year 2003 in terms of the Circular issued in the year 2002. Subsequently, Bihar Panchayat Prarambhik Shikshak (Niyojan Avam Seva Sart) Niyamvali, 2006 came to be framed and the Panchayat Shiksha Mitras were absorbed as Panchayat Teachers. It



is thereafter, the appellants caused a notice dated 20th of November 2006 served upon the District Magistrate disputing the appointment of the applicants as Shiksha Mitras. However, the appellants invoked the jurisdiction of this Court when he filed CWJC No.1393 of 2008 which came to be disposed of on 9th of September, 2010 with direction to the appellant to file an appeal before the appellate authority. This Court granted 30 days time to the appellants to file an appeal before the appellate authority. It is in pursuance of such an order, the appellate authority accepted the appeal of the appellants on 14.12.2010. It is the said order which has been set aside by the learned Single Judge on the ground that the appellants cannot be permitted to dispute the appointments after long lapse of time and after absorption of Shiksha Mitras as Panchayat Teachers.

We do not find any error in the order passed by the learned Single Judge. A Division Bench of this Court in a judgment reported as Umesh Chandra Shiva Vs. The State of Bihar & Ors., 2012 (1) PLJR 585 has held that the benefit of a cancellation of appointment would not go to the candidate next in the merit list of the Shiksha Mittra after coming into force of the Rules. In view of the said judgment, the appellants cannot be granted any benefit even if the appointment of the selected candidate is to be set aside. Still further, the appellants cannot be permitted to dispute the appointment of

Shiksha Mitras after long lapse of time.

We do not find any reason to interfere with the order when no relief can be granted to the appellants in any case in view of the judgment of the Division Bench of this Court in Umesh Chandra Shiva (supra). Consequently, the Letters Patent Appeal is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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