

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.667 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 19587 of 2010
Along with
Interlocutory Application No.2845 of 2015

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Ramesh Chaudhary @ Ramesh Kumar Chaudhary, son of Late Kunwar Chaudhary,
resident of village Balapokhar, P.O. + P.S. Deo, District Aurangabad.

.... Respondent No.7-Appellant

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department Govt. of Bihar, Patna.
 2. The District Teachers Employment Appellate Authority Aurangabad through its Member.
 3. The District Magistrate, Aurangabad.
 4. The District Programme Officer (Education) Aurangabad.
 5. The Block Development Officer Block - Deo, District – Aurangabad.
 6. The Block Education Extension Officer Block - Deo, District – Aurangabad.
- Respondents/Respondents.
7. Dilip Paswan, son of late Deonandan Paswan, resident of Village Kumharbigha, P.O. Deo, P.S. Deo, District – Aurangabad.

.... Petitioner- Respondent

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Appearance :

For the Appellants : Mr. Purushotam Sharma, Advocate

For the Respondents-State : Mr. Anil Kumar Sinha- G.A.-9

For the respondent No.7 : Mr. Rajendra Prasad Singh, Senior Advocate
Mr. Mukesh Kumar Singh, Advocate
Mr. Rishi Raj, 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: 25-07-2016

Re.: Interlocutory Application No.2845 of 2015.

The application is for condonation of delay of 9 days in
filing of the present Letters Patent Appeal.

2. 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.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.667 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 23rd of January, 2015 whereby, the writ petition filed by the respondent Dilip Paswan was allowed and the order passed by the District Teachers' Employment Appellate Authority (hereinafter referred to as 'Appellate Authority') on 1st of October 2010 was set aside.

2. Dilip Paswan was appointed as Panchayat Shiksha Mitra in Gram Panchayat Raj Bhawanipur within Deo Block in the district of Aurangabad vide order dated 28.05.2005. The 10 other Panchayat Shiksha Mitras were also appointed on the said date. The appointment of Dilip Paswan was extended on 14th of June, 2006 and he continued on the post till such time he was absorbed as Panchayat Teacher in terms of clause (3) of Rule 20 of the Bihar Panchayat Elementary Teachers (Appointment and service Conditions) Rules, 2006 (hereinafter referred to as 'the Rules').

3. The present appellant made a grievance in respect of



appointment of Dilip Paswan as Panchayat Shiksha Mitra when he preferred an appeal (Appeal No.89 of 2010) before the Appellate Authority, i.e. almost five years later. In the said appeal, the appointment of Dilip Paswan was set aside and the appellant was ordered to be engaged as Panchayat Shiksha Mitra. It is the said order passed by the Appellate Authority which has been set aside by the learned Single Bench. Aggrieved against the order of the learned Single Bench, the appellant is before this Court.

4. Learned counsel for the respondent Dilip Paswan has raised an argument that the challenge to the appointment of Dilip Paswan suffers from gross delay and laches, i.e. almost five years. If the appellant had any grievance against his non-selection and appointment of Dilip Paswan as Panchayat Shiksha Mitra, he should have been vigilant as he could have approached the District Magistrate and after commencement of the Rules, he could have approached the Block Development Officer since substituted by the Appellate Authority in the year 2008. Since the appellant has not taken recourse to any of the remedies, the appellant cannot be permitted to dispute the appointment of Dilip Paswan after five years. The settled rights cannot be unsettled by invocation of jurisdiction of the Appellate Authority after five years.

5. Learned counsel for the appellant could not offer any reasonable explanation for delay or explain the circumstances as to why

he has not approached the jurisdiction of the District Magistrate prior to promulgation of 2006 Rules or by way of an appeal before the Block Development Officer prior to 2008. It is only in 2010 after more than two years of the constitution of the Appellate Authority, the appellant invoked the jurisdiction of the Tribunal which should not have been entertained at that stage.

6. In view of the above, we do not find any reason to interfere with the order passed by the learned Single Judge in the present intra court appeal. The Letters Patent Appeal is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
CAV DATE	N. A.
Uploading Date	28.07.2016
Transmission Date	