

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.540 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 19157 of 2012

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Sarita Kumari W/O Ashok Kumar, Prakhand Teacher, Olapur Gangaur Block and District- Khagaria

.... Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Department, Bihar, Patna
3. The District Magistrate, Khagaria
4. The District Superintendent Of Education, Khagaria
5. The Block Education Area Officer, Khagaria Block, Khagaria
6. The Member, District Education Employment Appellate Authority, Khagaria
7. The Mukhiya, Gram Panchayat Olapur, Gangaur, Khagaria
8. The Panchayat Secretary, Gram Panchayat Olapur, Gangaur, Khagaria
9. Kumari Lalmuni, W/O Shri Bibhuti Kumar Singh, Resident Of Village Sanhauli, P.S. and District- Khagaria
10. Anuradha Rani W/O Surendra Kumar, Panchayat Teacher, Primary School, Olapur Musahari Block, Distt.- Khagaria

.... Respondent/s

With

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Letters Patent Appeal No. 684 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 19157 of 2012
Along with
Interlocutory Application No. 3453 of 2014
In
Letters Patent Appeal No. 684 of 2014

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Anuradha Rani W/o Surendra Kumar, Panchayat Teacher, Primary School Olapur Mushari, Block and District- Khagaria

.... Appellant/s

Versus

1. The State of Bihar through Collector Khagaria
2. The Principal Secretary, Human Resources Department, Government of Bihar, Patna



3. District Magistrate, Khagaria
4. The District Superintendent of Education, Khagaria
5. The Block Education Area Officer, Khagaria Block, Khagaria
6. The Member, District Education Employment appellate authority, Khagaria
7. The Mukhiya, Gram Panchayat Raj Olapur Ganfaur, Khagaria
8. The Panchayat Secretary, Gram Panchayat Olapur Gangaur, Khagaria
9. Kumari Lalmuni, W/O- Bibhuti Kumar Singh Resident of Village- Sanhauri,
P.S. and District- Khagaria
10. Sarita Kumari W/o Ashok Kumar, Prakhand Teacher, Olapur Gangaur Block,
District Khagaria

.... Respondent/s

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Appearance :

(In LPA No. 540 of 2014)

For the Appellant/s : Mr. Vasant Vikas, Advocate

For the Respondent/s : Mrs. Namrata Mishra, GA 6 with
Mr. Chhotelal Mishra, AC to GA 6

(In LPA No. 684 of 2014)

For the Appellant/s : Mr. Rakesh Chandra, Advocate

For the State : Mrs. Namrata Mishra, GA 6 with
Mr. Chhotelal Mishra, AC to GA 6

For the Respondent No. 9 : Mr. Shubhesh Pandey, Advocate

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CORAM:

HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 07-09-2016

Heard learned counsel for the parties.

Re.: Interlocutory Application No. 3453 of 2014

In

Letters Patent Appeal No. 684 of 2014

2. The Interlocutory Application has been filed seeking
condonation of 19 days delay in filing of the Letters Patent Appeal.



3. Upon hearing learned counsel for the parties and considering the averments made in the Interlocutory Application, we find that sufficient cause has been shown for delay in filing of the appeal. Consequently, the delay in filing of the Letters Patent Appeal is condoned.

4. Interlocutory Application No. 3453 of 2014 stands disposed off.

Re.: Letters Patent Appeal No. 540 of 2014
And
Letters Patent Appeal No. 684 of 2014

5. The present intra-court Appeals arise out of order dated 28.10.2013 passed by the learned Single Bench by which C.W.J.C. No. 19157 of 2012 filed by the appellants has been dismissed. The appellants had joined to file the writ petition but have preferred to file separate Letters Patent Appeal and, thus, both have been taken up together for hearing.

6. The appellants were appointed as Panchayat Teachers pursuant to advertisement in the year 2006 and joined on 09.05.2007 along with others. One Kumari Lalmuni being aggrieved by her non-selection moved the District Teachers Employment Appellate Authority, Khagaria (hereinafter referred to as the 'Authority') but the same was rejected by order dated 08.08.2009 against which she moved this Court in C.W.J.C. No. 14622 of 2009 which was disposed



off by order dated 01.12.2011 whereby the Court after quashing the order dated 08.08.2009 remitted the matter back to the Authority. Pursuant to such remand, the Authority, after hearing the parties, including the appellants, passed order dated 12.08.2012 holding that the entire selection process was illegal and contrary to the Rules and, thus, set aside such appointment and it was further directed to go for and complete the process of appointment. The same was subject matter of challenge before the learned Single Bench in C.W.J.C. No. 19157 of 2012 and dismissal of the writ has given rise to the present Letters Patent Appeals.

7. Learned counsel for the appellants submitted that the order of the Authority is fit to be quashed for the reason that the complaint was against Sushma Dayal and Charanjeet Kumar Singh and not against the appellants and as such their appointment could not have been interfered with. Learned counsel submitted that the appellants having been appointed on 09.05.2007, such appointment being set aside after more than five years was inordinately delayed. It was further submitted that the Area Education Officer had submitted an enquiry report to the Authority holding the appointment of the appellants to be legal and valid and also that Kumari Lalmuni had not given her consent for appointment at the relevant time and therefore, was not selected. It was further submitted that the appellant in L.P.A.



No. 540 of 2014 had the highest marks in the general female category and appointed against such roster point whereas the appellant of L.P.A. No. 684 of 2014 was appointed against B.C. category female and, thus, Kumari Lalmuni could not have any grievance or claim against them. Learned counsel relied on a Division Bench judgment of this Court in the case of **Puja vs. State of Bihar** reported as **2016 (1) PLJR 836** for the proposition that non-selected candidate who has filed application before the Authority, against one selected candidate, the Authority could not start a roving enquiry and cancel the entire selection process.

8. Learned counsel for the State submitted that the Authority has gone into the entire selection process in great detail and has arrived at a finding that the same was illegal and there has been violation of the prescribed Rules in this regard.

9. Having considered the rival contentions, we do not find any merit in the present Letters Patent Appeals. The contention of the appellants may be correct to the extent that the grievance of Kumari Lalmuni was with regard to two other candidates but when the matter was remitted back to the Authority, hearing was after issuing notice to all concerned, including the appellants. The appellants at that time did not object to their cases also being considered by the Authority and also could not have objected to the



same for the reason that though the Authority was moved by Kumari Lalmuni against the appointment of the two persons but the same could not have been considered in isolation and, but necessarily, had to be in the larger context of the sanctity and validity of the entire selection process. Thus, had the Authority limited its enquiry only to the selection of Sushma Dayal and Charanjeet Kumar Singh, any finding would not have stood the test of judicial scrutiny as validity of the selection process could not have been gone into after bifurcating the same and limiting it only with regard to Kumari Lalmuni, Sushma Daya and Charanjeet Kumar Singh. Moreover, after having gone through the order of the Authority dated 13.08.2012, it is apparent that it has gone into all aspects of the matter and considered the whole appointment process and has found grave irregularities. Once the same has been noticed by the Authority, the natural result was to hold such selection process to be vitiated in its entirety and, thus, the order passed by the Authority is sound, both on facts as well as in law. Further, the order of the learned Single Bench dated 28.10.2013 is also well considered and does not require any interference.

10. As far as the decision of the Court in the case of **Puja** (supra) is concerned, the same is of no help to the appellants as in the said case, while the matter was pending before the Authority, the records were called for and roving enquiry was held without



notice to any party and the entire selection process being cancelled had been interfered with. In the present case, the appellants were not only noticed, they had also appeared and had not taken an objection either before the Authority or had moved this Court that their appointment could not be looked into and had rather defended their selection on merit.

11. In view thereof, we do not find any error either in the order of the Authority or the learned Single Bench. Accordingly, the Letters Patent Appeals Stand dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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