

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.101 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 12513 of 2011**

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Urmila Devi, Wife of Suryadeo Prasad, Sarpanch, Dharmapura Panchayat, Block-
Nokha, Distt- Rohtas

.... Appellant

Versus

1. The State of Bihar through the Secretary, Panchayat Raj Department, Patna
2. The District Magistrate, Rohtas
3. The District Panchayati Raj Officer, Rohtas
4. The Block Development Officer, Nokha, Distt- Rohtas
5. The Up-Sarpanch Dharmapura, Panchayat Block, Nokha District- Rohtas
6. The Mukhiya, Dharmapura, Panchayat, Block Nokha District- Rohtas
7. Prabhawati, wife of Birendra Prasad, Village- Dudhar, P.O.- Sisart, P.S.-
Nokha, District- Rohtas.

.... Respondents

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Appearance :

For the Appellant : Mr. Surendra Kumar Choubey, Advocate.
For the State : Mrs. Ruchika Kumari, A.C. to S.C. 27
Mr. Jai Prakash Sinha, 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: 08-04-2016

I.A. No. 403 of 2014

The application is for condonation of delay of 753 days in filing
the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application,
we are satisfied that the appellant has shown sufficient cause to seek
condonation of delay of 753 days in filing the present Letters Patent
Appeal.

3. Consequently, Interlocutory Application No. 403 of 2014 is allowed and delay of 753 days in filing the Letters Patent Appeal is condoned.

L.P.A. No. 101 of 2014

Heard learned counsel for the appellant and the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 26th of September, 2011 in C.W.J.C. No. 12513 of 2011.

3. The writ application has been allowed with a direction to the Block Development Officer and the District Panchayati Raj Officer to work out the outstanding dues of the writ petitioner and take steps for payment within a period of three months.

4. The present Letters Patent Appeal is by Sarpanch Urmila Devi. In respect of Urmila Devi, the writ petitioner has averred to the following effect in Para 4 of the writ petition:-

“That it is worth mentioning here that the salary of the Secretary is paid on the basis of Attendance Roll which is maintained and kept by the concerned ‘Sarpanch’. The then ‘Sarpanch’ namely Urmila Devi asked illegal gratification of Rs. 10,000/- from the petitioner for forwarding the Attendance Roll of the petitioner to the concerned Block Development Officer for the purposes of payment of petitioner’s salary.”

5. A perusal of such paragraph shows that there was allegation of *mala fide* against Urmila Devi, but without impleading her, writ

petitioner approached the Writ Court and the writ application was allowed.

6. We find that once allegation of *mala fide* has been levelled, it was the bounden duty of the writ petitioner to implead the necessary parties including the one against whom the allegations are levelled. Since the necessary parties were not impleaded, we deem it proper to set aside the order passed by the learned Single Bench and remit the matter back for fresh decision after impleading the present appellant as Respondent No. 8.

7. It may be stated that though Sarpanch, Dharmapura Panchayat was impleaded as Respondent No. 5 but even in the official capacity notice was not served upon the Sarpanch. So, neither notice was served in the official capacity nor to Urmila Devi personally, though there is allegation of misconduct levelled against her.

8. In view thereof, the Letters Patent Appeal is allowed, order passed by the learned Single Bench is set aside and the matter is remitted back to the learned Single Bench as per roster for decision in accordance with law after giving the parties opportunity to file counter affidavit.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit
N.A.F.R.

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