

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.416 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 719 of 2014**

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Reena Kumari W/O Pradip Kumar, Resident Of Village- Line Par Mirjapur, Gali No. 1, P.S and P.O- Nawada, District- Nawada.

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary, Human Resources Department, Govt. of Bihar, Patna.
3. The District Teachers Appointment Appellate Authority, Nawada.
4. The District Programme Officer, Nawada.
5. The Block Education Extension Officer, Nawada.
6. The Panchayat Secretary, Makhar Panchayat, Akbarpur, District- Nawada.
7. The Mukhiya, Gram Panchayat Akbarpur, District- Nawada.
8. The District Education Officer, Nawada.
9. Pratima Kumari W/O Mukesh Kumar Resident Of Village- Ranipur, P.S- Akbarpur, District- Nawada.
10. Prabila Kumari W/O Sunil Kumar P.O Makhar, District- Nawada.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Surendra Kishore Thakur Mr. Pramod Kumar Verma
For the Respondent/s	:	Mrs. Shilpa Singh, GA XII Mr. Ram Vinay Pd. Singh, AC to GA XII

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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: 02-08-2016**

The challenge in the present Letters Patent Appeal is to an order dated 20th January, 2014 passed in CWJC No. 719 of 2014, whereby the learned Single Bench has not interfered with the order passed by the District Teachers Appointment Appellate Authority dated 11th September, 2013.



The appellant was a candidate for appointment to the post of Panchayat Teacher along with respondent nos. 9 and 10. Respondent nos. 9 and 10, Pratima Kumari and Prabila Kumari, respectively, were appointed as Panchayat Teachers in the year 2010. It has been found by the learned Single Bench that challenge to the appointments was after gross delay as an appeal before the Appellate Authority was filed in the year 2013, i.e., almost after three years of the appointment.

The stand of the appellant is that she had submitted a representation but the factum of submission of representation could not be established in the absence of any proof of such representation being made. Still further, the learned Single Bench has found that the appellant has not produced any proof of the fact that she belongs to the Backward Class category as she has not produced either Caste Certificate or Domicile Certificate. In view of the said fact, the learned Single Bench dismissed the writ petition.

Learned counsel for the appellant has vehemently argued that there was no delay as the appellant invoked the writ jurisdiction of this Court, and in pursuance of the liberty granted, she moved the Appellate Authority. Thus, the finding of delay recorded by the learned Single Bench is not tenable in law. It is also pointed out that the finding of the Tribunal and that of the learned Single Judge that

Caste certificate and Domicile certificate were not produced by the appellant are not correct.

We have heard learned counsel for the parties and find that no case is made out for interference in the present appeal. This Court in exercise of its power of judicial review will examine the decision making process. The appellant is aggrieved against the appointment of respondent nos. 9 and 10 as Panchayat Teachers made in 2010, but an appeal was filed before the Tribunal in the year 2013. Once the appellant was a participant in the selection process, it is presumed that she was aware of the appointment of the respondents as Panchayat Teachers but she has not taking immediate action to dispute the appointment. Such conduct of the appellant is an act which infers delay. Consequently, the decision has rightly been taken by the learned Tribunal and by the learned Single Bench.

In respect of Caste and Domicile Certificates, there is a finding of fact recorded by the Authority. The assertion of the appellant that she has produced the Caste and Domicile Certificates cannot be said to be tenable when finding of fact has been recorded by the Appellate Authority that no such certificate was produced. The mere assertion will not prove the furnishing of certificates.

We do not find that there is any patent illegality which may warrant interference in the present appeal. The appeal is accordingly

dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl.

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