

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.127 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 1737 of 2011**

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1. The State of Bihar Through The Principal Secretary, Department of Industry, Govt. of Bihar, Patna
 2. The Principal Secretary, Department Of Industry, Govt. Of Bihar, Patna
 3. The Director Of Industry, Govt. Of Bihar, Patna
 4. The Joint Director Of Industry, Government Of Bihar, Patna
 5. The Managing Director, District Industry Centre, Bhagalpur

.... Appellant/s

Versus

Most. Sihanta Sinha W/O Late Abhay Kumar, Resident Of Village- Sahajpura, Police Station- Nardiganj in the District Of Nawadah, Presently residing at House No. 92 C/O Prince Kumar, Magadh Colony, Kurji, Patna- 10

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajiv Roy, GP 5
Mr. Suresh Kumar, AC to GP 5
For the Respondent/s : Mr. Amaresh Kumar Sinha
Mr. Shashi Bhushan Singh

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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: 04-05-2016

The challenge in the present Letters Patent Appeal is to an order dated 27th August, 2013, passed by the learned Single Judge in CWJC No. 1737 of 2011, whereby the writ petition filed by the respondent was allowed. The claim of the writ petitioner was for appointment on compassionate ground and for a direction to accept her joining on the basis of appointment letter dated 23.10.2002.

The husband of the applicant, Abhay Kumar, died in



harness on 30.04.1998. At that time, the applicant was stated to be 35 years of age and having three children of 13, 15 and 16 years of age. The applicant applied for appointment on compassionate ground claiming her date of birth to be 11.11.1963 and that she possessed the educational degree equivalent to Matriculate. She also submitted an affidavit dated 02.06.1998 along with the application form.

The applicant also submitted her School Leaving Certificate from Patna Residential Public School dated 29.12.1998 with date of birth as 11.11.1963. On the basis documents submitted, the applicant was ordered to be appointed against a Class III post vide letter of appointment dated 23.10.2002. The applicant was called upon to appear along with the original documents. The applicant did not furnish the original documents, therefore, a reminder was sent on 8.11.2002 to furnish the documents of her educational qualification so that the veracity of the same can be got verified by the Institution. It is thereafter, the applicant submitted a certificate from Hindi Vidyapeeth, Deoghar, dated 12.11.2002. The said certificate was sent to the Hindi Vidyapeeth, Deoghar, in the State of Jharkhand, on 23.11.2002 for verification. However, Hindi Vidyapeeth, Jharkhand, responded on 30.11.2002 that the certificate sent on behalf of the applicant is a forged one. Therefore, the same is being sent without authentication. It is thereafter on 24.12.2002, appointment of the

applicant was withdrawn.

The applicant thereafter submitted a representation on 21.02.2003 along with another certificate from Hindi Vidyapeeth, Deoghar, wherein the date of birth of the applicant was mentioned as 01.07.1974 and that she was qualified with the examination equivalent to Matriculation in the year 1998. The said certificate was furnished through Patna Residential Public School vide communication dated 08.01.2003.

After considering the documents furnished by the applicant from time to time, it was found that the certificates are contradictory inasmuch as the Patna Residential Public School gives the date of birth as 11.11.1963, whereas the Hindi Vidyapeeth, Deoghar gives the date of birth as 01.07.1974. There is discrepancy in the date of birth. On the basis of documents filed, the claim of the applicant was rejected by the Director, Industries, Bihar, on 23.08.2011. It was the said order which was set aside by the learned Single Judge.

Hence this appeal.

A perusal of the records shows that the certificate from Hindi Vidyapeeth, Deoghar, has been managed by the applicant after death of her husband on 30.04.1998 to obtain appointment on compassionate ground. It is so evident from the certificate issued by the Patna Residential Public School on 08.01.2003, wherein it is



stated that there was some mistake in the certificate originally submitted from Hindi Vidyapeeth, Deoghar, but they have got the certificate verified from the Vidyapeeth by personally visiting the same. It is not understood as to how the applicant would get certificate of an examination equivalent to Matriculation from Hindi Vidyapeeth, Deoghar. Rather, it appears that the entire mechanism of obtaining the certificate is shrouded by suspicion. The second certificate supplied by the applicant from Hindi Vidyapeeth, Deoghar, gives her date of birth as 01.07.1974, whereas as per her stand, her date of birth is 11.11.1963. In the certificate dated 12.11.2002 originally furnished, the applicant is referred to as wife of Late Abhay Kumar. It is not understood as to how she could qualify in an examination equivalent to Matriculation in the year 1998 itself. Though the certificate is issued by Hindi Vidyapeeth, Deoghar, Bihar on 12.11.2002, but Deoghar has fallen within the State of Jharkhand with effect from 15.11.2000. Such certificate has been found to be forged by the Institute.

The second certificate issued on 11.01.2003 is to the effect that the applicant qualified such examination in the year 1998. Thus, there are discrepancies in the date of birth. It appears that the certificate obtained from Hindi Vidyapeeth is not a genuine certificate or obtained by the applicant without attending regular classes but was

obtained to get an appointment on compassionate ground. Since the very basis of appointment is shrouded with suspicion, we find that such an applicant is not entitled to any indulgence in equitable writ jurisdiction of this Court.

Consequently, the appeal is allowed and the writ petition is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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