

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.240 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 2424 of 2014
Along with
Interlocutory Application No.1103 of 2015**

=====

Smt. Ranju Kumari, W/o Bhola Das, Resident of village - Jaipur, P.S. Mehndiya,
District- Arwal.

.... Petitioner- Appellant

Versus

1. The State of Bihar through the Director, Department of Social Welfare,
Government of Bihar, New Secretariat, Patna.
2. The Director, Department of Social Welfare, Govt. of Bihar, New Secretariat,
Patna.
3. The District Magistrate, Arwal.
4. The District Programme Officer, Arwal.
5. The Child Development Programme officer, Kaler, District Arwal.
6. Smt. Kiran Kumari W/o Sanjay Das, Resident of village - Jaipur, Post Jaipur,
Police Station Mehndih, District Arwal (Bihar).

.... Respondents-Respondents

=====

Appearance :

For the Appellant : Mr. Sanjeet Kumar, Advocate

For the Respondents : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 22-04-2016

Re.: Interlocutory Application No.1103 of 2015

The application is for condonation of delay of 23 days in
filing of the appeal.

For the reasons mentioned in the application, we find that
sufficient cause is disclosed for condonation of delay. Consequently,
the delay of 23 days in filing of the appeal is condoned.

Interlocutory Application stands disposed of accordingly.

Re.: Letters Patent Appeal No.240 of 2015

The order dated 26th of June, 2014 passed by the learned Single Bench in C.W.J.C. No.2424 of 2014 is subject matter of challenge in the present Letters Patent Appeal whereby challenge to para 4.10 of the Guidelines, 2011 issued by the State Government vide Notification dated 04.11.2011 remained unsuccessful.

Learned Single Bench has found that para 4.10 of the Guidelines notified on 04.11.2011 has undergone a major change when the Notification dated 10.06.2013 was published, therefore the writ application has become infructuous.

Learned counsel for the appellant argued that even after amendment, the bar, which was in para 4.10 of the Guidelines notified on 04.11.2011, in respect of near relatives of the dealers of Public Distribution System continued, therefore, the challenge has not become infructuous. He relies upon a Supreme Court judgment in the case of Baliram Prasad v. Union of India and others, AIR 1997 SC 637, and that of a Division Bench judgment of the Punjab and Haryana High Court in the case of Tarsem Singh v. Bharat Sanchar Nigam Ltd. and etc., AIR 2004 Punjab and Haryana 156 to contend such bar is unconstitutional.

We find that substantially, the disqualification for



appointment as Anganwari Sevika continued even after the amendment though the scope was enlarged. An Anganwari Sevika is appointed by the Gram Panchayat in its Aam Sabha. Near relatives of dealers of Public Distribution System have been debarred so as to avoid allegation of misappropriation and for proper utilization of Public Distribution System. Such conditions with larger public purpose cannot be said to be unjustified in any manner as the conditions are for utilization of network of Public Distribution System properly.

The judgment in Baliram Prasad case (supra) is not a case of Rules or Guidelines whereby a near relative has been debarred. In the aforesaid case, the competent authority took decision not to appoint a candidate on the post of Extra Department Delivery Assistant for the reason that his cousin was already working. In the absence of any pre-condition, as in the present case, such decision has not been found to be sustainable. We do not find that the principle of law laid down in the aforesaid case anywhere arises for consideration in the present case wherein there was an earlier decision taken by the State Government not to appoint the near relatives of existing dealers of Public Distribution System as Anganwari Sevika.

In Tarsem Singh case (supra), the condition of tender issued by Bharat Sanchar Nigam Limited for tele-communication work debarred a candidate from participation whose near relatives were

working in BSNL. The Court found that the brother of writ petitioner was working merely as a clerk with BSNL and the decision was to be taken by the General Manager of the Area and, therefore, it was inconceivable that a Clerk would be able to influence such a high ranking officer. It is on these facts; the Court interfered with the disqualification of the tender.

In view thereof, we do not find that the condition imposed for universal application before the selection process is set in motion is illegal and arbitrary in any manner.

The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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