

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.496 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 17619 of 2009**

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Kamal Prasad Yadav, son of Late Bhola Yadav, Resident of Village - Mahulia,
P.O. Tilath, P.S - Phulparas, Distt - Madhubani

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Health, Government of Bihar, Patna
3. The Director - In - Chief, Health Services, Department of Health Govt. of Bihar, Patna
4. The Regional Deputy Director, Health Services, Darbhanga Division, Darbhanga
5. The Civil Surgeon - Cum - Chief Medical Officer , Madhubani
6. The In-charge Medical Officer, Primary Health Center, Ghoghardiha, Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Prafull Chandra Jha, Advocate

For the Respondent/s : Ms. Nivedita Nirvikar, 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: 21-06-2016

Re.: Interlocutory Application No. 2195 of 2015

The application is for condonation of delay of 55 days
in filing of the appeal.

For the reasons mentioned in the application, we find
that sufficient cause is made out for condonation of delay.
Consequently, the delay of 55 days in filing of the appeal is
condoned.

Interlocutory Application stands disposed of.

Re.: Letters Patent Appeal No. 496 of 2015

The present Letters Patent Appeal is directed against an order dated 11.11.2014 passed by the learned single Bench in C.W.J.C. No. 17619 of 2009, whereby the challenge to the termination of services of the appellant remained unsuccessful.

The appellant was initially appointed as Basic Health Worker. His services were terminated on 26.06.2001 for the reason that his initial appointment itself is forged and illegal.

Later, in pursuance of the directions of this Court, a committee was appointed to examine the appointments to the post of Basic Health Workers made by the State Government. The committee gave a report on 31.12.2008. It was found that the appointment of the appellant was forged and illegal.

The appellant filed a writ petition challenging the finding of the Committee. The learned single Bench found that there is no assertion on behalf of the appellant that he was selected after following procedure for appointment to a public post. It was also noticed that even the appointment letter was not produced on record. The learned single Bench found that there is no material to hold that the findings recorded by the committee are erroneous.

The question as to whether any person can be appointed without following the due procedure for public employment has been

examined by a Full Bench of this Court in a judgment in the case of ***Ram Sevak Yadav vs. The State of Bihar*** reported as ***2013(1) PLJR 964***. It has been held that appointments made without following any procedure for public employment cannot be protected. Since the appointment of the appellant was not as per the procedure meant for appointment to the public post, therefore, the finding recorded by the enquiry committee constituted under the order of this Court cannot be said to be arbitrary and illegal which may warrant interference in the present Letters Patent Appeal.

Consequently, the appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar

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