

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.654 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 10491 of 2010
Along with
Interlocutory Application No.2817 of 2015

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Bhushan Mahto, son of Late Bindeshwari Mahto, resident of village and P.O. Shital Rampur, Via- Bakhari, District- Begusarai.

.... Appellant/s

Versus

1. The State of Bihar.
2. The District Teacher Employment Appellate Tribunal Begusarai, District - Begusarai.
3. The Block Development Officer, Garhpura, District- Begusarai.
4. Mukhiya Gram Panchayat, Panchayat Mauji, Harisangh , District- Begusarai.
5. Panchayat Sachib Panchayat Mauzi, Harisangh, District- Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Onkar Nath, Advocate
For the Respondent/s : None

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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: 13-07-2016

Re.: Interlocutory Application No.2817 of 2015

The application is for condonation of delay of 1222 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.654 of 2015

The order dated 7th of March, 2011 passed by the learned Single Bench of this Court is subject matter of challenge in the present Letters Patent Appeal whereby, the removal of the appellant as Panchayat Teacher was not interfered with.

2. The appellant claims to be physically handicapped (hearing impaired) person. He applied for appointment as a Panchayat Teacher. He was appointed, but his appointment was set aside by the District Programme Officer. An appeal filed against the said order was dismissed and so was the writ petition. Still aggrieved, the appellant has filed the present Letters Patent Appeal.

3. A perusal of the order passed by the District Teachers Employment Appellate Authority (hereinafter referred to as 'the Appellate Authority') shows that the appellant has obtained 35.55% marks and was appointed for the reason that he is related to Mukhiya. The candidate, who had got higher marks such as Mritunjay Kumar and is also hearing impaired physically disabled candidate, was not appointed. Even Kedar Mochi, who obtained 56.33%, has been ignored whereas a candidate, who has got less than 35% marks, has been appointed. The Appellate Authority has given detailed reason in paragraph 29 of its order as to why it is not agreeing with the

arguments raised by the appellant.

4. We have heard learned counsel for the appellant and find no merit in the present appeal. The appellant was appointed even though he has got almost 35% marks and the candidates, who are higher in merit and in the same physically disabled candidate category, were not appointed. The reason for appointment of the appellant is forthcoming on record, that is, he is related to Mukhiya. Once the merit has been given go-bye while making the appointment, the District Programme Officer was not unjustified in setting aside the appointment of the appellant. The Appellate Authority has rightly considered the respective contentions of the parties and found that the appointment of the appellant was not sustainable.

5. In view of the finding recorded, we do not find any merit in the present Letters Patent Appeal and the same is dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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