

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 402 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 17704 of 2008

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Mohamad Javeed Aalam S/O Late Yashin Resident of Village - Kashi Badi Tola,
P.O. Sohandarhat Vaya Jokihata District Araria.

.... Petitioner/s / Appellant/s

Versus

1. The State of Bihar through Secretary Education, New Secretariat, Patna.
2. The Director Education, Budh Marg, Patna.
3. The Collector, Araria.
4. The District Education Officer, Araria.

....Respondent/s / Respondent/s

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Appearance :

For the Appellant/s : Mr. Chandra Kant, Advocate

For the State : Mr. M. N. H. Khan, S.C. 1

Mr. Md. Irshad, A.C. to S.C. 1

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 18-08-2016

Heard learned counsel for the parties.

2. Challenge in the present intra-Court Appeal is to
the order dated 03.04.2012 passed by the learned single Bench by
which C.W.J.C. No. 17704 of 2008 filed by the appellant has been

dismissed with certain directions.

3. The appellant, pursuant to advertisement, had applied for appointment to the post of Peon in Purnanand High School in the District of Araria in the year 1994. On the basis of such application, a panel was prepared. However, when he was not appointed, he kept representing before various authorities and finally when he filed application under the Right of Information Act on 27.08.2008, he came to know that order was passed by the Director, Primary Education Bihar, Patna dated 03.05.2000 directing for institution of an F.I.R. against the appellant for submitting forged and fabricated document. The appellant moved this Court in C.W.J.C. No. 17704 of 2008 seeking appointment on the post of Peon, which has been dismissed by the learned single Bench on 03.04.2012, giving rise to the present appeal.

4. Learned counsel for the appellant submits that pursuant to his applying for the post of Peon in the said school, his name was at serial no. 102 in the panel and thus he deserves to be appointed. He further submits that the authorities had sought direction from the higher authorities in the matter clearly stating that the appellant was fulfilling criteria for such appointment and, thus, his non-appointment is arbitrary. He further submits that the order of the Director dated 03.05.2000, not implemented till date, clearly

indicates that the authorities had acted only for the sake of frustrating the claim of the appellant. Lastly, learned counsel submits that the direction by the learned single Bench for holding an elaborate exercise, which in effect is in the nature of direction to lodge an F.I.R. against the appellant, needs to be interfered with.

5. Learned counsel for the State submits that the appointment of peon in a nationalized high school was to be made under the Seva Shart Niyamavali, 1983, in which Rule 8 empowers the Headmaster of the school to make such appointment on the basis of panel prepared by the Collector of the District in terms of the Government Letter No. 16441 dated 03.12.1980, which has not been done. It is submitted that the inclusion of the name of the appellant in the panel in the year 1996 was also based on a forged communication.

6. Having considered the matter, we do not find any merit in the present appeal. The appellant cannot be given a clean chit for his conduct. Moreover, the cause of action arising in the year 1994/1996 and the writ petition having been filed in the year 2008, the learned single Bench has rightly held that the writ petition has been filed belatedly and even if his name existed in the year 1996, the same was valid only for one year as per Clause 5 of the Government circular dated 03rd December, 1980.

7. In view of the aforesaid, the Letters Patent Appeal
stands dismissed.



(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

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