

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.258 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 7305 of 2012**

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Seema Kumari, Daughter of Pratap Narayan Singh, Wife of Rabindra Kumar,
Resident of Village - Nadiyama, Police Station - Goradih, District - Bhagalpur.

.... Appellant

Versus

1. The State of Bihar, through the Director Prathamik Shiksha, H.R.D. Department,
Government of Bihar, Patna.
2. District Superintendent of Education, Bhagalpur.
3. Prakhand Bikash Padadhikari, Goradih, Bhagalpur.
4. Prakhand Shiksha Prasar Padadhikari, Goradih, Bhagalpur.
5. Mukhiya Gram Panchayat Nadiyama, Prakhand Goradih, Bhagalpur.
6. Secretary, Gram Panchayat Nadiyama, Prakhand Goradih, Bhagalpur.
7. Member, District Teachers Appointment Appellate Tribunal, Bhagalpur.

.... Respondents

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Appearance :

For the Appellant : Mr. Ranjeet Kumar, Advocate.
Mr. Akash Keshav, Advocate.

For the Respondents :

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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: 27-04-2016

I.A. No. 1180 of 2015

The application is for condonation of delay of 217 days in
filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory
Application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay of 217 days in filing the present
Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 1180 of 2015 is allowed and delay of 217 days in filing the Letters Patent Appeal is condoned.

L.P.A. No. 258 of 2015

The order dated 16th of April, 2012 passed by the learned Single Bench of this Court in C.W.J.C. No. 7305 of 2012 is subject matter of challenge in the present Letters Patent Appeal.

2. The challenge in the writ application was to an order passed by the Appellate Authority dated 15th of December, 2011, whereby the appointment of the appellant was found to be illegal and was thus cancelled. The Appellate Authority found from the record produced by the Panchayat Secretary that there was over-writing in respect of merit points of the appellant and that though the date of application submitted by the appellant was 15.10.2008 but the experience certificate was dated 15.12.2008. The appellant was given benefit of experience on the basis of experience certificate whereby her marks was enhanced. Thus, the appointment of the appellant is vitiated.

3. Learned counsel for the appellant contended that the counselling was held on 28.02.2009 and, therefore, the experience certificate could very well be taken into consideration for giving benefit of experience. However, learned counsel for the appellant

could not produce any condition in the advertisement or in the rule or the instructions that the candidate could supplement the document than the documents already submitted at the time of application. Since the date of application is prior to the date of experience certificate, therefore, the experience certificate could not have been taken into consideration.

4. The order passed by the learned Appellate Authority has not been found to be illegal by the learned Single Bench.

5. We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

6. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Anjani
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