

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.939 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 439 of 2014**

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Chandrama Singh Yadav, S/o Jai Ram Yadav, R/o Kalyanpur, P.S.-Bhore, Distt.-
Gopalganj,

.... Appellant/s

Versus

1. The State of Bihar, through Principal Secretary, Department of Education,
Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. The Director, Department of Education, Govt. of Bihar, Patna
4. The District Magistrate, Gopalganj
5. The District Teacher Appellate Tribunal Gopalganj.
6. The Mukhiya Gram Panchayat Raj, Bankatta, Jagirdari.
7. The Secretary, Gram Panchayat Raj, Bankatta, Jagirdari.
8. Sheela Kumari, w/o Vidya Sharma, R/o Bankatta, Jagirdari, P.S.-Bhore, Distt.
Gopalganj.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate.
Mr. Amresh Kumar Singh, Advocate.
Mr. Devanand Tiwari, Advocate.

For Respondent No.9 : Mr. Vishwajeet Kumar Mishra, Advocate.
Mr. Ashutosh Tripathy, Advocate.

For the State : Mr. Anil Kumar Verma, A.C. to A.A.G. 9

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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: 08-09-2016

Re.:I.A. No. 3970 of 2015

The application is for condonation of delay of 44 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 44 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 3970 of 2015 is allowed and delay of 44 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 939 of 2015

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 2nd of February, 2015 in C.W.J.C. No. 439 of 2014 whereby, challenge to the order dated 29th of November, 2013 passed by the District Teachers Employment Appellate Authority (for short “The Appellate Authority”), Gopalganj has remained unsuccessful.

3. The appellant was appointed as Panchayat Teacher on 15th of April, 2007. Such appointment was challenged by one Sheela Kumari before the Appellate Authority with specific averment that the present appellant has obtained 498 marks in the Intermediate Examination from Bihar Intermediate Education Council whereas; the marks-sheet produced by him shows marks obtained as 648.

4. In reply, the appellant has not controverted the fact of marks obtained as asserted by Sheela Kumari in her appeal before the Appellate Authority. What the appellant disputed is that the appeal

could not be entertained after 90 days.

5. The learned Appellate Authority set aside the appointment of the appellant on the ground that he has furnished forged marks-sheet and, therefore, the appointment obtained on the basis of forged certificate cannot be protected under the plea of limitation. It is the said order which was challenged before the learned Single Bench and the writ application was dismissed.

6. Though the learned counsel for the appellant was at pains to argue that the appellant has obtained 648 marks but in view of the specific pleadings before the Appellate Authority that the appellant has obtained 498 marks in the Intermediate Examination and the fact that there was no counter affidavit to the said aspect that the appellant has not obtained 498 marks and that the marks-sheet submitted by the appellant having 648 marks is not forged, the order of the Appellate Authority cannot be said to be untenable in any manner.

7. A perusal of the merit-list appended with the counter affidavit of Respondent No. 4 shows that the name of the appellant appears at Serial No. 2 on the basis of percentage of marks as 71.77 per cent along with 20 per cent weightage of experience.

8. In view of the proved fact that the appellant obtained 498 marks out of 900 marks, therefore, the marks reflected in the

merit-list as 71.77 per cent is patently incorrect.

9. Still further, the rule of granting weightage in terms of Bihar Panchayat Primary Teacher (Appointment and Service Condition) Rules, 2006, as amended on 25th of August, 2008 contemplate weightage of experience. The appellant was appointed prior to 25th of August, 2008. Therefore, as per the Rule originally promulgated, the appellant cannot be entitled to any weightage but even if the weightage of 20 marks is to be granted, the appellant will still not obtain 71.77 per cent of marks as he has obtained 55 per cent marks i.e. 498+20 marks. Since the appellant has obtained appointment on the basis of forged and fabricated marks-sheet, therefore, the appellant is not entitled to any indulgence.

10. We do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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