

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.176 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 3105 of 2010**

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Parmeshwar Prasad Son of Sri Vidyanand Paswan Resident of Village - Jagdishpur,
Post Office and P.S. - Karjain, District – Supaul.

.... Appellant/s

Versus

1. The State of Bihar , through the Secretary, Department of Human Resources Development, Government of Bihar, Patna
2. The District Teacher Selection Appellate Tribunal Supaul, through its Secretary
3. The District Superintendent of Education, Supaul
4. The Mukhiya, Gram Panchayat Parmanandpur, Post Office - Gospur, Police Station - Karjain, District - Supaul
5. The Panchayat Secretary, Gram Panchayat Parmanandpur, Post Office - Gospur, Police Station - Karjain, District - Supaul
6. The Head Master, Primary School Adraha Harijan Tola, Post Office - Sanskrit Nirmali, Police Station - Pratapganj, District - Supaul
7. Urmila Devi Wife Of Shri Deo Narayan Paswan Resident Of Village - Parmanandpur, Post Office - Gospur, District - Supaul, Presently Residing at Koshi Colony Karjain, Post Office - Karjain, District - Supaul

.... Respondent/s

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Appearance :

For the Appellant/s :
For the State : Mr. Vivek Prasad, GP-7 with
Mr. Manisha Singh, AC to GP-7

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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: 19-10-2016

Heard learned counsel for the parties.

2. The challenge in the present intra-Court appeal is
to the order dated 08.04.2013 by which the learned Single Bench has
dismissed C.W.J.C. No. 3105 of 2010 filed by the appellant.

3. The appellant, along with others, including



respondent no. 7, had applied for the post of Panchayat Teacher in September, 2006. On the basis of merit list prepared on 13.11.2007, the appellant was appointed as Panchayat Teacher on 20.11.2007, among 12 persons, the appellant being placed at serial no. 1. The respondent no. 7 filed Appeal No. 234 of 2009 before the District Teachers Employment Appellant Authority, Supaul (hereinafter referred to as the 'Authority') on 19.03.2009. By order dated 08.01.2010 the Authority cancelled the appointment of the appellant on the ground that the vacancy on which he was appointed was reserved for Scheduled Caste Female and directed the Selection Committee to consider the case of respondent no. 7 within three months. Being aggrieved, the appellant preferred C.W.J.C. No. 3105 of 2010 and dismissal of the same by the learned Single Bench by order dated 08.04.2013 has given rise to the present Letters Patent Appeal.

4. Learned counsel for the appellant submitted that he was not made party in Appeal No. 234 of 2009 and thus, there has been violation of the principles of natural justice and further, that the appeal itself was barred by limitation. Learned counsel submitted that the respondent no. 7 had less merit compared to the appellant. It was further contended that the roster point against which the appellant was appointed does not disclose that it was reserved for a



female and, thus, the order of the Authority is erroneous.

5. Learned counsel for the State submitted that the Authority had clearly held that the post on which the appellant was appointed, being reserved for Scheduled Caste Female, could not have been filled up by a male candidate.

6. Having considered the rival contentions, we do not find any merit in the present appeal. Initially, finding *prima facie* force in the contention of learned counsel for the appellant that the roster point 78 could not have been reserved for Scheduled Caste Female, as such reservation was introduced on 25th August, 2008 reserving 50% post for female candidates, learned State counsel was called upon to clarify the position. Pursuant to the same, counter affidavit has been filed in which it has been stated that under Notification No. 974 dated 01.07.2006, which became effective from that date, 50% reservation for female candidates was made effective and that the roster point 78, against which the appellant was appointed, belonged to Scheduled Caste Female category. Copy of the affidavit was served on learned counsel for the appellant on 14.09.2016, but no rejoinder to the same has been filed. Further, from perusal of the merit list, copy of which has been made Annexure-3 to the writ petition, the name of the petitioner is at serial no. 1 and the category shown is S.C. (F), which clearly indicates that



it is Scheduled Caste Female. Thus, there is no ambiguity with regard to the post to which the appellant was appointed as it did fall in the category of Scheduled Caste Female whereas the appellant is a male. We have also perused the 100 point roster for Elementary Level Schools which clearly indicates that the roster point 78 is S.C. (F). The position being such, the appellant being a male could not have been appointed on the category of a Scheduled Caste Female and, thus, the Tribunal has rightly set aside such appointment. As the Tribunal has only directed for considering the case of the respondent no. 7, we are not going into the merit as to whether she could be appointed as the same is for the Selection Committee to take a decision in accordance with law.

7. In view thereof, we do not find any error in the order passed by the learned Single Bench dismissing the writ petition and accordingly, the Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar

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