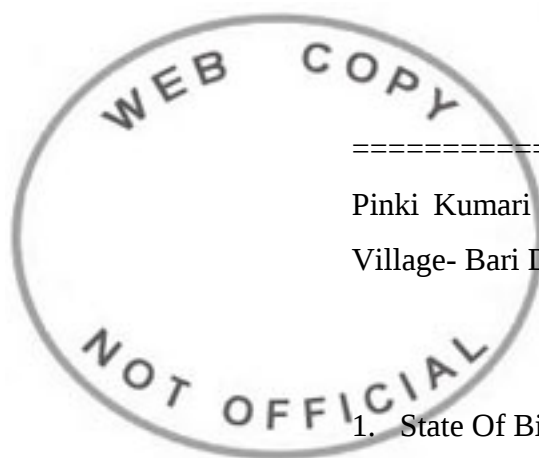




IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.260 of 2014
Along with
Interlocutory Application No. 1194 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 12695 of 2008

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Pinki Kumari Wife Of Devanand Ram, Daughter Of Kedar Prasad Resident Of
Village- Bari Dariyapur, Kali Asthan, P.S.- Jamalpur, District- Munger

.... Appellant/s

Versus

1. State Of Bihar
2. The Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Magistrate, Lakhisarai
5. The Deputy Development Commissioner, Lakhisarai
6. The District Superintendent Of Education, Lakhisarai
7. The Sub-Divisional Officer, Lakhisarai
8. The Block Development Officer, Block Ramgarh Chawk, Ramgarh Chowk, District- Lakhisarai
9. The Mukhiya Cum Chairman, Panchayat Teacher Selection Committee, Gram Panchayat Raj, Sharma, P.S.- Ramgarh Chawk, District- Lakhisarai
10. The Panchayat Teacher Selection Committee Through Its Secretary, Gram Panchayat Raj, Sharma, P.S.- Ramgarh Chawk, District- Lakhisarai
11. Manju Kumari Wife Of Sri Bhim Mandal @ Prem Nath Mandal Resident Of Village- Bariarpur, P.O.- Loshghani (Bariarpur), P.S. Peeree Bazar, District- Lakhisarai

.... Respondent/s

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Appearance :

For the Appellant	:	Mr. Shankar Kumar Shankar with Mr. Baidyanath Shankar, Advocates
For the State	:	Mr. Amaresh Kumar Sinha, AC to GA 9
For the respondent no. 11	:	Mr. Umesh Kumar Mishra, Advocate

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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: 19-07-2016

Re.: Interlocutory Application No. 1194 of 2014

The application is for condonation of delay of 148 days in filing of the appeal.

For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, the delay of 148 days in filing of the appeal is condoned.

Interlocutory Application stands disposed off.

Re.: Letters Patent Appeal No. 260 of 2014

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 27th February, 2012 whereby, challenge to the claim of the appellant to the post of Panchayat Teacher remained unsuccessful.

The challenge in the writ petition was to an order dated 06.06.2008 passed by the Block Development Officer, whereby the appointment of the appellant on the post of Panchayat Teacher was cancelled with a further direction to appoint respondent no. 11.

Respondent no. 11, Manju Kumari was appointed as a Panchayat Teacher under the Sharma Gram Panchayat. Her services were terminated on 24.05.2007. The appellant was appointed as

Panchayat Teacher on 28.06.2007. The respondent no. 11 challenged the cancellation of her appointment before the Block Development Officer. The Block Development Officer set aside the appointment of the appellant and ordered the appointment of respondent no. 11.

The argument of the appellant before this Court is that the respondent no. 11 was appointed as Panchayat Teacher on the basis of her qualification obtained from Hindi Sahitya Sammelan, Allahabad where she obtained her Intermediate qualification of Madhyama (Visharad). However, the Block Development Officer found that in matriculate examination, the respondent no. 11 is more meritorious than the present appellant. In view of the higher marks obtained by respondent no. 11, she was directed to be appointed and the appointment of the appellant was cancelled. Challenge to the said order remained unsuccessful at the instance of the appellant before the learned Single Bench. Still aggrieved, the writ petitioner is in appeal before this Court.

Learned counsel for the appellant has vehemently argued that the respondent no. 11 was appointed on the basis of her Intermediate qualification of Madhyama from Hindi Sahitya Sammelan, Allahabad which was not recognized for the post of Panchayat Teacher. As the very basis of her appointment is the qualification from Hindi Sahitya Sammelan, therefore, the Block

Development Officer has erred in law in directing her appointment on the basis of Matriculation examination.

We have heard learned counsel for the parties and find no merit in the present appeal. The minimum educational qualification for the post of Panchayat Teacher is Intermediate. The Bihar Panchayat Teachers Appointment Rules, 2006 provides that if a candidate with Intermediate qualification is not available, then the matriculate candidate can be considered for appointment provided he obtained the qualification of Intermediate within a period of six years.

Thus even if the Intermediate qualification certificate of respondent no. 11 from the Hindi Sahitya Sammelan, Allahabad is ignored then the candidates with matriculation certificate alone were in zone of consideration. Since the Intermediate qualification was found to be not valid, therefore, the Block Development Officer has taken into consideration the marks obtained in the next lower examination i.e., Matriculation and ordered the appointment of respondent no. 11.

Mere fact that the certificate of Madhyama from Hindi Sahitya Sammelan is found to be not recognized for the purpose of appointment of Panchayat Teacher, then the respondent no. 11 does not become ineligible for consideration for appointment as the Rules itself contemplate that in case a candidate with Intermediate

qualification is not available, then the candidate with Matriculation qualification can be considered for appointment. Therefore, her Intermediate qualification certificate having been found not recognized, therefore, the Block Development Officer has not committed any illegality in taking into consideration the Matriculation examination for the purpose of appointment of Panchayat Teacher.

We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal and is accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
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