

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.232 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 4498 of 2013
Along with
Interlocutory Application No. 1033 of 2015

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Shrikanti Devi, Daughter of Shri Raj Kishore Prasad, Wife of Shri Hari Shankar Prasad, Resident of Village Shinghi, Police Station- Andar, District- Siwan. Anganwari Sevika at Anganbari Centre No. 130 Village Singahi Dakshin Bhag, Gram Panchayat Raj Garar, Block Zeeradei, District Siwan.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, Social Welfare Department, Bihar, Patna.
3. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna.
4. The Divisional Commissioner, Saran Division at Chapra.
5. The District Magistrate, Siwan.
6. The District Programme Officer, Siwan.
7. The Child Development Project Officer, Zeeradei , District Siwan.
8. The Mukhiya, Gram Panchayat Raj Garar, Block, Zeeradei , District Siwan.
9. The Panchayat Secretary, Gram Panchayat Raj Garar, Block - Zeeradei , District Siwan.
10. Sunita Devi, Wife of Birendra Ram, Resident of Village Singhi , Police Station Ander, District- Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ranjeet Kumar, Advocate.

For the Respondent/s : Mr. J.S.Barnawal, GA-1.

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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: 25-04-2016

Interlocutory Application No. 1033 of 2015

The application is for condonation of delay of 321 days
in filing of the appeal.

2. For the reasons mentioned in the application, we find

that sufficient cause is made out for condonation of delay. Consequently, the delay of 321days in filing of the appeal is condoned.

3. Interlocutory Application stands disposed of.

Letters Patent Appeal No. 232 of 2015

The order dated 15th March, 2013 passed by the learned Single Bench in C.W.J.C. No. 4498 of 2013 is the subject matter of challenge in the present Letters Patent Appeal, whereby the challenge to the order passed by the District Magistrate, Siwan on 7th December, 2012 cancelling the selection of the appellant from the post of Anganwadi Sevika and also directing to lodge an F.I.R. was not interfered with by the Writ Court.

2. The appellant was appointed as Anganwadi Sevika in the year 2007 as a candidate belonging to Other Backward Class. One of the issues, which has been taken into consideration by the District Magistrate, is that the appellant has produced Matriculation Examination result showing 592 marks, i.e., 1st Division whereas she has obtained 433 marks and has qualified in 2nd Division.

3. Learned counsel for the appellant has contended that she was the sole candidate in the category of Other Backward Class and, therefore, there was no purpose of giving a forged certificate, as in any case, she would be selected in the category. It is also contended

that the interpolation in the Matriculation Examination result was done by the Mukhiya of the Gram Panchayat, whereas there was no necessity for the appellant, as a sole applicant, to interpolate in her Matriculation Examination result.

4. The facts remains that there is interpolation in the Matriculation Examination result of the appellant, whether it is done either by the appellant or the Mukhiya, is the subject matter of investigation. This Court, at this stage, cannot prejudge the issue to say that the interpolation was not done by the appellant but by the Mukhiya, which is a matter of investigation by the police to find out that who has done the interpolation in the Matriculation Examination result. Therefore, we do not find any error in the order passed by the learned single Bench upholding the order of the District Magistrate to lodge an F.I.R. in respect of appointment of the appellant as Anganbari Sevika.

5. Similarly, the issue whether the majority community is of the Other Backward Classes or the Scheduled Castes, is also a subject matter of enquiry. Therefore, whether the appellant could have been appointed is again a matter of enquiry, which cannot be prejudged at this stage.

6. Consequently, we do not find any error in the order passed by the learned single Bench which may warrant interference in

the intra court appeal.

7. The Letters Patent Appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/P.Kumar
N.A.F.R.

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