

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1048 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 2560 of 2015

Along with

Interlocutory Application No.4336 of 2015

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Subhadra Devi, wife of Mangal Prasad Sharma, resident of Village- Dharahan Tola
Rahika, P.S. Pranpur, District- Katihar.

.... Appellant/s

Versus

1. The State of Bihar, through the Principal Secretary, Social Welfare Department,
Government of Bihar, Patna.
2. The Director, Integrated Chief Development Services, Bihar, Patna.
3. The Divisional Commissioner, Purnea Division Purnea.
4. The Regional Development Officer, Purnea Division, Purnea.
5. The District Magistrate, Katihar.
6. The District Panchayat Raj Officer, Katihar.
7. The District Programme Officer, Katihar.
8. The Chief Development Project Officer, Pranpur, Katihar.
9. The Block Development Officer, Pranpur, Katihar.
10. The Mukhiya Gram Panchayat Raj Dharahan, Pranpur, Katihar.
11. Ranju Kumari, wife of Prabhakar Mandal, resident of Village- Rahika, P. O.
Dharhan, P.S. Pranpur, District- Katihar.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Ajey Kumar, Advocate
For the Respondents-State : Mr. Ajay Bihari Sinha, G. A. -8
Mr. Suryakant Kumar, A.C. to G.A.-8

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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: 20-09-2016

Re.: Interlocutory Application No.4336 of 2015

The application is for condonation of delay of 48 days in filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.1048 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 11th of February, 2015 whereby, the cancellation of appointment of the appellant as Anganwari Sevika was not interfered with in the writ petition.

2. Initially, the appellant was a Ward Member of the Gram Panchayat. As a Ward Member of the Gram Panchayat, she was not eligible to apply and to be appointed as Anganwari Sevika. But the appellant applied and was appointed as Anganwari Sevika. Such appointment was challenged by one Ranju Kumari which challenge before the District Programme Officer remained unsuccessful on 15.10.2008. The said order was set aside in an appeal before the District



Teachers Appointment Appellate Authority (for short, 'the Authority') and the matter was remanded back on 16.11.2011. It is thereafter, the District Programme Officer passed an order on 06.12.2014 finding that the appellant has continued to work as Ward Member even after the so called resignation, which is evident from her attendance in the proceedings of the Gram Panchayat. Therefore, she was ineligible for appointment as Anganwari Sevika. The challenge to the said order remained unsuccessful before the learned Single Judge and still aggrieved; the writ applicant is before this Court.

3. Learned counsel for the appellant has argued that the appellant has submitted her resignation on 19th January, 2007, and that the resignation becomes effective the moment it was submitted. Therefore, the District Programme Officer has erred in law in holding that the appellant continued to be the Ward Member of the Gram Panchayat.

4. We do not find any merit in the arguments raised. It has been found by the learned District Programme Officer that the so called resignation was sent on 19th of January, 2007 but she participated as a Ward Member of the Gram Panchayat on 26th of January, 2007, therefore, she was not eligible for appointment as Anganwari Sevika.

5. It is a finding of fact recorded by the District Programme Officer that the appellant acted as a Ward Member even after her so

called resignation; therefore, she was not eligible for appointment as Anganwari Sevika. The appellant could not produce any letter whereby acceptance of her resignation was communicated to her. Therefore, the letter dated 19th of January, 2007 cannot be said to be a resignation which led to relinquishment of her elected office.

6. In view thereof, we do not find any merit in the Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N.A.F.R.
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