

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.227 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 7307 of 2010**

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Vimal Kumar, Son of Kari Lal Rai, Resident of Village - Koriya, P.O. - Choraut,
P.S. - Pupri, District - Sitamarhi

.... Appellant

Versus

1. The State of Bihar through H.R.D. Bihar, Patna.
2. The Member Zila Shikshak Niyojan Appeliya Pradhikar , Sitamarhi
3. The Block Education Extension Officer, Choraut, P.S. - Pupri, District - Sitamarhi
4. The Sub-Divisional Education Officer, Pupri, District - Samastipur
5. The District Superintendent of Education, Sitamarhi, at present known as District Program Officer (Establishment), Sitamarhi
6. The Headmaster, Rajkiya Prathmik Vidyalaya Koriya Gram Panchayat Raj Yadupatti, P.O. - Chourat, P.S. - Pupri, District - Sitamarhi
7. Kumar Krishna, Son of Late Paras Rai, Resident of Village - Koriya, P.O. - Choraut, P.S. - Pupri, District - Sitamarhi

.... Respondents

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Appearance :

For the Appellant : Mr. Abhinay Raj, Advocate.
Mr. Gagan Deo Yadav, Advocate.
For the State : Mr. Jay Prakash Sharma, A.C. to G.P. XI
For private respondent : Mr. Harendra Kumar, 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: 21-06-2016

Heard learned counsel for the parties.

2. Present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 9th of May, 2013 in C.W.J.C. No. 7307 of 2010, whereby the writ application was allowed and the writ-applicant was ordered to be appointed as a Panchayat Teacher after setting aside the order passed by the District

Teachers Appointment Appellate Tribunal.

3. The writ-applicant applied for appointment as Shiksha Mitra between 27th of January, 2003 to 29th of January, 2003. 38 candidates applied for appointment to the said post. The name of the writ-applicant is at Serial No. 16. On 30th of January, 2003, there was a meeting for selection of the Shiksha Mitra and in such meeting, 27 candidates appeared and their merit-list was prepared. Such merit-list has been placed on record as Annexure-2. The name of the writ-applicant appears at Serial No. 1 of the candidates belonging to the Backward Classes, whereas the name of the appellant does not appear in the said list. The writ-applicant was thus appointed being higher in the merit-list. Subsequently, on commencement of Bihar Panchayat Primary Teachers (Appointment and Service Condition) Rules, 2006 the writ-applicant came to be absorbed as Panchayat Teacher. It was on 28th of December, 2008, the appellant moved a complaint against the selection of the writ-applicant. The matter went to the Tribunal. The Tribunal struck down the appointment of the writ-applicant but did not order for appointment of the appellant. Such order of the Tribunal has been set aside by the learned Single Bench. Separate writ application filed by the appellant claiming appointment stands dismissed and so is the Letters Patent Appeal.

4. The learned Single Bench has found that challenge

to the appointment of the writ-applicant came to be made after long delay, and thus cannot be permitted.

5. We do not find any error in the findings recorded by the learned Single Bench. The appointments were made in the year 2003; whereas the grievance was made for the first time in December, 2008. Thus, the complaint regarding appointment was made after gross delay and laches. Still further, it is pointed out by learned counsel for the respondents that the appellant applied for appointment as per the averments made in the Memo of Appeal on 31st of January, 2003 i.e. after the Selection Committee met on 30th of January, 2003. Therefore, not only he was not a candidate but the grievance regarding appointment of the writ-applicant was made after gross delay as well.

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

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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