

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.565 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 20182 of 2010
Along with
Interlocutory Application No. 2791 of 2014
In
Letters Patent Appeal No.565 of 2014**

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Dilip Kumar, S/O Late Bhudeo Prasad Mahto, R/O Hari Nagar (Harna), P.S.-
Goradih, District- Bhagalpur

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Regional Deputy Director of Education, Bhagalpur Division, Bhagalpur
4. The Director, Primary Education, Human Resources Development Department, Govt. of Bihar, Patna
5. The District Teacher Employment Appellate Authority, Bhagalpur through Its Chairman, Distt- Bhagalpur
6. The Member, District Teachers Employment Appellate Authority, Bhagalpur, Distt- Bhagalpur
7. The Block Development Officer, Block- Goradih, Distt- Bhagalpur.
8. The Block Education Extension Officer, Goradih, Distt.- Bhagalpur
9. The Mukhiya, Gram Panchayat Raj- Tarcha Damuchak, Block- Goradih, Distt- Bhagalpur
10. The Panchayat Secretary, Gram Panchayat Raj- Tarcha Damuchak, Block- Goradih, Distt- Bhagalpur
11. Madan Kumar, Son of Sri Mandeshwari Mandal, R/O Vill.- Babhangama, P.O.- Satjori, P.S. + Block- Goradih, Distt- Bhagalpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Swapnil Kumar Singh, Advocate.
For the Respondent/s : Mr. M.N.H.Khan, SC-1
Mr. Babita Kumari, AC to SC-1

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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: 26-09-2016

Heard learned counsel for the parties.

2. The challenge in the present intra court appeal is to the order dated 19.02.2014 passed by the learned Single Bench by which CWJC No. 20182 of 2010, filed by the respondent no. 11, has been allowed.

3. The appellant, along with the respondent no. 11, had applied for the post of Panchayat Teacher in the year 2006 in the Most Backward Class category. The respondent no. 11 had filed an application on the basis of Up-shastri degree obtained by him in the year 2005, having passed in the first division. After counselling, respondent no. 11 was selected as Panchayat Teacher in the said category on 06.08.2007 and appointment letter was issued to him on 15.10.2007, pursuant to which, he joined on 16.10.2007. Thereafter, he successfully completed 30 days of training.

4. The appellant had challenged the appointment of the respondent no. 11 in CWJC No. 18804 of 2008, which was withdrawn with liberty to move before the District Teachers Employment Appellate Authority (hereinafter referred to as the 'Authority'). The Appeal Case No. 256 of 2009, filed by the appellant before the Authority, was finally allowed in his favour by order dated



30.11.2010 and appointment of the respondent no. 11 was cancelled and the appellant was directed to be appointed on the said vacancy. The respondent no. 11, being aggrieved of the same, moved before the learned Single Judge in CWJC No. 20182 of 2010 and the same having been allowed by order dated 19.02.2014, has given rise to the present Letters Patent Appeal.

5. Learned counsel for the appellant submitted that the respondent no. 11 had pursued the course of I.Sc. as a regular student during the session 2001-03, but he did not appear at the examination and again enrolled for the course of Up-shastri in the session 2003-05 and also took the examination and passed in the first division. He submitted that while pursuing the course of Up-shastri, the respondent no. 11 appeared at the I.Sc. examination in 2004 and passed in the second division. It was submitted that the same was illegal as in the year 2004, he was already enrolled in the course of Up-shastri for the session 2003-05 and, thus, there is overlapping and both the degrees being full time in nature, the respondent no. 11, already enrolled in the I.Sc. course, could not have pursued the Up-shastri course simultaneously and the employment given to him, based on the Up-shastri degree, is illegal, as such degree itself was not proper. It was submitted that the Authority has rightly considered the issue and directed for appointment of the appellant, which has wrongly been



interfered by the learned Single Judge.

6. Learned counsel for the State submitted that the learned Single Judge has rightly set aside the order of the Authority dated 30.11.2010 on the ground that the writ applicant (respondent no. 11) having pursued the I.Sc. and Up-shastri courses during different sessions, only having appeared at the I.Sc. examination in the year 2004, as an ex-student, cannot be said to be even irregular, muchless illegal.

7. Having considered the rival contentions, we do not find any merit in the present Letters Patent Appeal. The undisputed fact remains that the respondent no. 11 (writ applicant) had pursued his I.Sc. course for the session 2001-03 and the Up-shastri course for the session 2003-05. Further admitted fact being that he had appeared as an ex-student in the year 2004 in the I.Sc. examination after taking leave from the college where he was pursuing his Up-shastri course, explains the position and there is no anomaly or fault in the conduct of the respondent no. 11 with regard to pursuing both I.Sc. and Up-shastri course and also appearing for the two examinations. Thus, the Up-shastri degree, where he got first division, being relied upon for seeking employment by the respondent no. 11, was quite natural and cannot be faulted. The reasoning of the Authority is clearly erroneous and the order passed by it has rightly been set aside by the learned



Single Bench.

8. In view thereof, the order passed by the learned Single Bench does not warrant interference and, accordingly, the Letters Patent Appeal stands dismissed.

9. Interlocutory Application No. 2791 of 2014 for stay of the order dated 19.02.2014, having become infructuous, stands disposed off.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

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