

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.504 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 20208 of 2013**

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Serajul Haque, son of Late Abdul Haque, resident of Mohalla - Hariharganj, Ward No. 13, P.O. and P.S. Nasariganj, District - Rohtas

.... Appellant

Versus

1. The State Election Commission (Municipality) Sone Bhawan, Birchand Patel Path, Patna through the State Election Commissioner
2. The State Election Commissioner, the State Election Commission (Municipality), Sone Bhawan, Birchand Patel Path, Patna
3. The District Election Officer (Municipality), Rohtas at Sasaram, District - Rohtas at Sasaram
4. Md. Israil Khan, Son of Kamruddin Khan, resident of Mohalla - Hariharganj, Ward No. 13, P.O. and P.S. Nasariganj, District – Rohtas.

.... Respondents

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Appearance :

For the Appellant : Mr. Rakesh Narayan Singh, Advocate.
Mr. Prabhat Ranjan Singh, Advocate.

For the Respondents :

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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: 30-06-2016

Re.:I.A. No. 2251 of 2015

The application is for condonation of delay of 41 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellant has shown sufficient cause to seek condonation of delay of 41 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 2251 of 2015 is allowed and delay of 41 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 504 of 2015

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order dated 28th of August, 2014 passed by the learned Single Bench of this Court in C.W.J.C. No. 20208 of 2013, whereby the writ application filed by the appellant challenging the order of the State Election Commission stands dismissed.

3. The appellant was disqualified under Sections 18(1)(m) and 18(2) of the Bihar Municipal Act, 2007 since he had more than two children on the date of filing of the Nomination Paper. The learned Single Bench has examined the entire evidence to return a finding that the female child born at Arogya Medicare (Pal Hospital), Ranjhi, Jabalpur was that of the appellant. The learned Single Bench has also referred to an order passed by the Madhya Pradesh High Court which clearly reflects that Siraj Khan and Raunak Khan i.e. father and mother of the child are resident of Nasriganj in the district of Rohtas which address is the same as that of the appellant and thus, the appellant has tried to mask his identity while his wife gave birth to a female child in the district of Jabalpur.

4. The learned Single Bench has considered the entire evidence in great detail to return a finding that the female child born in Arogya Medicare, Ranjhi, Jabalpur was that of the appellant alone.

5. In the present Letters Patent Appeal, the learned counsel for the appellant sought to reargue the entire matter. However, it could not be pointed out that any evidence or document has not been taken into consideration by the learned Single Bench before returning a finding that the female child was born to the appellant alone at Arogya Medicare, Ranjhi, Jabalpur.

6. In view of the said fact, 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.

7. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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