

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1315 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 297 of 2013
Alongwith
Interlocutory Application No. 5750 of 2015

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Ajay Kumar Yadav, Son of Late Sukhasan Yadav, resident of Village-Tenuamath,
P.S. Rosera, District-Samastipur.

.... Appelant-Appellant

Versus

1. The State of Bihar.
2. The Member, District Teachers Appointment Appellant Authority, Samastipur.
3. The District Programme Officer(Establishment), District-Samastipur.
4. The Block Development Officer, Rosera, District-Samastipur.
5. The Block Education Officer, Rosera, District-Samastipur.
6. The Mukhiya, Gram Panchayat Raj, Rahua, Block-Rosera, District-Samastipur.
7. The Panchayat Secretary Gram Panchayat Raj Rahua, Block-Rosera, District-Samastipur.

.....Respondents Ist Set.

8. Rajesh Kumar Roushan, Son of Sri Nageshwar Mahto, R/O Village-Mirjapur, P.S.-Rosera, District-Samastipur.

.....Respondents/2nd Set/Petitioner.

with

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Letters Patent Appeal No. 440 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 297 of 2013
Alongwith
Interlocutory Application No. 1945 of 2016

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Rajesh Kumar Raushan, Son of Sri Nageshwar Mahto, resident of Village-Mirjapur,
PS- Rosera, District Samastipur.

....Respondents- Appellants

Versus

1. The State of Bihar.
2. The Member, District Teachers Appointment Appellate Authority, Samastipur.
3. The District Programme Officer, (Establishment)District Samastipur.
4. The Block Development Officer, Rosera ,District Samastipur.
5. The Block Education Officer, Rosera,District Samastipur.
6. The Mukhiya ,Gram Panchayat Raj Rahua, Block Rosera, District Samastipur.
7. The Panchayat Secretary, Gram Panchayat Raj Rahua, Block Rosera, District-Samastipur.
8. Ajay Kumar Yadav, Son of late Sukhasan Yadav, resident of Village- Tenuamat Block Rosera, District Samastipur.

.... Petitioners-Respondents



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Appearance :

(In LPA No.1315 of 2015)

For the Appellant : Mr. Mrityunjay Kumar, Advocate.

For the Respondents : Mr. Ravi Verma, A.C. to G.P.4.

(In LPA No.440 of 2016)

For the Appellant : Mr. Suraj Narayan Yadav, Advocate.

For the Respondents : Mr. Ravi Verma, A.C. to G.P.4.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date: 17-01-2017

Re.: Interlocutory Application Nos. 5750 of 2015 in
L.P.A. No. 1315 of 2015 and 1945 of 2016 in L.P.A. No.
440 of 2016.

These applications are for condonation of delay of 24 days
and 55 days respectively in filing of the aforesaid two Letters Patent
Appeals.

For the reasons mentioned in the applications, we find that
sufficient cause is made out for condonation of delay. Consequently,
we condone the delay in filing of the aforesaid two Letters Patent
Appeals.

Interlocutory Applications stand allowed accordingly.

Re. Letters Patent Appeal Nos. 1315 of 2015 and 440 of
2016.

Heard Learned Counsel for the parties.

Both the Letters Patent Appeals are directed against the
same order passed by the Learned Single Bench on 29th of January
2015 in C.W.J.C No. 297 of 2013 filed by the Writ Petitioner, who is



Respondent No. 8 of LPA No. 1315 of 2015, and the appellant of LPA No. 440 of 2016, whereby Annexure–7 and it's corresponding order contained in Annexure–11 to the writ petition have been quashed.

The writ application was filed against the order of District Teachers Employment Appellate Authority, Samastipur, dated 04.11.2010 contained in Memo No. 741 dated 16.11.2010, by which it was ordered to appoint Respondent No. 8 of writ petition, on the post of Panchayat Teacher under Backward Male, Category in the Gram Panchayat Rahua, Block – Rosera, District–Samastipur, and the consequential order i.e. letter of appointment issued by the concerned Panchayat Secretary in favour of Ajay Kumar Yadav, the appellant in LPA No. 1315 of 2015.

The Learned Single Bench while passing the order dated 29.01.2015 has observed that if nobody had turned up for participation amongst the category of trained candidates, and if no merit list was prepared with regard to untrained candidates, then exercise should have been initiated afresh and thus quashed the order of appointment under challenge, passed by the Appellate Authority and further directed to fill-up the post in accordance with existing rule.

We are also of the view that exercise should be made afresh to fill-up the vacancy in terms of existing rules and the order of the



appellate Authority is not sustainable in view of Article 16(1) of the Constitution of India.

Hence, we don't find any valid reason to interfere with the order of the Learned Single Bench.

Therefore, both the Letters Patent Appeals are, accordingly, dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

U.K./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.02.2017.
Transmission Date	

