

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.726 of 2016

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Jawahar Thakur, S/o Late Sheo Pujan Thakur, Resident of village & P.O. Geedha,
P.S. Koilwar, District – Bhojpur.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Joint Secretary, Human Resources Development Department, Government of Bihar, Patna.
4. The District Education officer, Bhojpur, District – Bhojpur.
5. The District Superintendent of Education, Bhojpur, District – Bhojpur.
6. The Block Education Extension Officer, Koilwar Block, District – Bhojpur.
7. The Headmaster, Girls Primary School, Geedha, Koilwar District – Bhojpur.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Kumar Singh, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 14-07-2017

There is delay of 15 days in filing of the appeal. I.A. No.5083 of 2016 has been filed seeking condonation of delay. The delay in filing of the appeal is condoned.

Interlocutory Application stands allowed and disposed of.

Seeking exception to an order dated 24.02.2016 passed in the Civil Writ Jurisdiction Case No.7285 of 2011 by the learned Writ Court; this appeal has been filed under Clause 10 of the Letters Patent.

The writ petition in question was filed challenging an



order dated 21.02.2011 passed by the Director, Primary Education, Human Resources Development Department, Govt. of Bihar, rejecting the claim made by the petitioner for approving the appointment of the petitioner. It was the case of the petitioner that he was initially appointed in the year 1968 in a private school which was established by the local residents of the area. It is stated that subsequently, the school was taken over by the Government, but the services of the petitioner were not approved. The petitioner raised the claim and when his claim was not considered, he approached this Court in the year 2008 in CWJC No.174 of 2008 and on 25.08.2010; the writ petition was disposed of directing the competent authority to consider the case of the petitioner and take a decision. The competent authority having rejecting the same, the second writ petition was filed and it is the case of the petitioner that the petitioner was an employee of the School when it was taken over and, therefore, he had a right to be absorbed and permitted to work in the Government School after its take over.

Even though, learned counsel for the petitioner by referring to the statutory Rule, namely, Bihar Non-Government Elementary Schools (Taking over of Control) Act, 1976, tried to indicate that the petitioner has a right to be absorbed in the Government Service, but the facts that have come on record and the order passed by the learned Writ Court go to show that after 1981, the



petitioner has never worked and on an enquiry he has been found that his name does not appear in the attendance register and there was no material to show that after 1981 he worked.

Taking into consideration the aforesaid facts and based on the enquiry conducted, the learned Writ Court has refused to interfere into the matter. In our considered view, in doing so, the writ court has not committed any error warranting consideration. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	

