

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1710 of 2016  
Arising out of  
Civil Writ Jurisdiction Case No. 10140 of 2008  
Alongwith  
Interlocutory Application No. 8126 of 2016

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Manju Kumari, W/o Chandradeep Paswan, resident of Village + Post - Kaila, P.S. - Sare, District - Nalanda.

.... .... Appellant

Versus

1. Kumud Kumari, W/o Nitish Kumar, resident of Village - Kaila, P.S. Sare, District Nalanda.

.....Petitioner/Respondent 1<sup>st</sup> Set.

2. The State of Bihar.  
3. The Secretary, Welfare Department, Government of Bihar, Old Secretariat, Bihar, Patna.  
4. The Commissioner, Patna Commissionery, Patna.  
5. The District Magistrate, Nalanda, District Nalanda.  
6. The Sub-Divisional Officer, Biharsharif, Nalanda, District - Nalanda.  
7. The Child Development Project Officer, Asthawan, District - Nalanda.  
8. The Mukhiya, Kaila Gram Panchayat, P.S. Sare, District - Nalanda.

.... .... Respondents/Respondents 2<sup>nd</sup> Set.

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**Appearance :**

For the Appellant : Mr. Arun Kumar, Advocate.  
For the Respondent No. 1 : Mr. Pankaj Kumar, Advocate.  
For the State : Mr. Anil Kumar Sinha, G.A. No. 1 and Miss. Aditi Hansaria, A.C. to G.A. No. 1.

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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: 27-01-2017

Re.: Interlocutory Application No. 8126 of 2016:

The application for condonation of delay of 205 days in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find



that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re. : Letters Patent Appeal No. 1710 of 2016.

Heard learned counsel for the appellant and the respondents.

This Letters Patent Appeal is directed against the order dated 06.01.2016 passed in CWJC No. 10140 of 2008, by the learned Single Bench of this Court, whereby the writ petition filed by the respondent no.1, for quashing the order dated 10.03.2008 passed by the Commissioner, Patna Division, Patna, affirming the order of the District Magistrate, Nalanda, has been allowed.

The respondent no.1 filed CWJC No. 10140 of 2008 before this Court, against the order of cancellation of her selection as 'Anganbari Sevika' passed by the District Magistrate, Nalanda, contained in Memo No. 68 dated 07.01.2008, which came to be affirmed by the order dated 10.03.2008 passed by the Commissioner, Patna Division, Patna, in Misc. Appeal No.30 of 2008.



In pursuance to the advertisement dated 21.12.2006 published by the Mukhiya of the Gram Panchayat, Kaila, for selection of 'Anganbari Sevika' in Ward No.8, the respondent no.1 came to be selected. In the selection process, as many as 11 applicants participated but except for the respondent no.1, none of the applicants belonged to Ward No.8 of the concerned Gram Panchayat. Hence there was no inter-se merit dispute amongst the applicants, thus the respondent no.1 was selected on 06.05.2007 vide 'Annexure-4' to the writ petition. Later on, a complaint was filed by the villagers before the District Magistrate, Nalanda, to the effect that the respondent no.1 had submitted an affidavit of incorrect fact that no family member of her being in Government service. In view of the said complaint, the District Magistrate, Nalanda, asked explanation from the respondent no.1, whereupon the respondent no.1 appeared physically before the District Magistrate, Nalanda, on 28.12.2007 and submitted explanation that her father was in service in BCCL Dhanbad, but she was married in the year 1995 much prior to the selection in question, therefore, she had not made any incorrect statement in the affidavit, submitted during process of appointment. The District Magistrate, Nalanda, vide Memo No. 68 dated 07.01.2008 cancelled the selection of the respondent no.1 as 'Anganbari



Sevika' and further directed to initiate fresh process of selection.

Against the said order of the District Magistrate, Nalanda, the respondent no.1 filed Misc. Appeal No. 30/2008 before the Commissioner, Patna Division, Patna. The respondent no.1 contended in the appeal that in the year 1995 she was married and thereafter she became family member of her in-laws family and was dependent only upon her husband. Thus there was no illegality, even any irregularity in her selection and she had nothing to do with her father who was employed out of the State of Bihar.

The Appellate Forum, relying upon the 2006 Guidelines held that the father of the respondent no.1 was working at B.C.C.L. Dhanbad, therefore, her selection is bad, as being daughter of Semi-Government servant.

The Learned Single Bench taking note of relevant clause of the guidelines, framed for selection of 'Anganbari Sevika', observed that in view of the judgment passed in CWJC No. 12911 of 2007 (Sunita Kumari-VS- State of Bihar & Ors.) reported in 2010 (3) PLJR 68 such bar in selection would not operate in case of such relations who are posted outside the block or outside district or outside State, therefore, selection of the respondent no.1



is not bad.

The Learned Single Bench further held that the term 'daughter' would obviously refer to unmarried daughter not married daughter, like the respondent no.1 and set aside the order of cancellation of selection passed by the District Magistrate, Nalanda.

We are of the view that from bare reading of sub clause (Anga) of clause 3 of the prevalent guidelines framed by the Social Welfare Department, Govt. of Bihar, dated 30.10.2006, it appears that daughter has been put together with wife and daughter-in-law, of the govt. servant or semi government servant, as to disqualify them from being selected on the post of 'Anganbari Sevika' and 'Sahaika', which necessarily means, only such unmarried daughter, who being part of the family of the government servant or semi government servant, at the relevant time of appointment, was not eligible to be appointed on the post of 'Anganbari Sevika' in terms of ICDS (D), Guideline dated 30.10.2006.

In the present case, the respondent no. 1 was married in the year 1995 and the present dispute relating to her appointment is of year 2006, by that time she was not part of the family of her



father, who was working in the State of Jharkhand.

In view of the facts and discussions made above, we find no valid reason to interfere in the order of Learned Single Bench.

The Letters Patent Appeal, thus, stands dismissed.

**(Hemant Gupta, ACJ)**

**(Sudhir Singh, J)**

U.K./-

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