

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1009 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 3676 of 2014
Along with
Interlocutory Application No.4214 of 2015**

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Pramila Kumari, W/O Birendra Kumar, D/O Sonarik Vishwakarma, R/O Village Shekhwar, P.O. Jindapur, P.S. M.U. Bodh - Gaya, District – Gaya.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Education Officer, Gaya.
5. The District Programme Officer (Establishment), Gaya.
6. The Block Education Extension Officer, Bodh Gaya, Gaya.
7. The District Teachers Employment Appellate Tribunal, Gaya.
8. The District Magistrate, Gaya.
9. The Mukhiya, Gram Panchayat, Shekhwar, Bodh - Gaya, Gaya.
10. The Panchayat Secretary, Gram Panchayat, Shekhwar, Bodh - Gaya, Gaya.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashi Bhushan Kumar, Advocate
For the Respondent/s : Mr. Amarendra Kumar, AC to AAG-5

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 04-02-2017

Re.: Interlocutory Application No.4214 of 2015

The application is for condonation of delay of 6 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.1009 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 17th November, 2014 whereby an order passed by the District Teachers Employment Appellate Authority dated 13th September, 2013 was not interfered with.

The appellant belongs to Backward Class category but she was appointed against the post meant for Extremely Backward Class category. It is on that ground her services have been terminated that she could not have been appointed against the post meant for Extremely Backward Class category.

The appellant belongs to caste *Lohar* which has been declared as Extremely Backward Class vide Notification dated 25th March, 2010. Therefore, one of the arguments raised is that her appointment cannot be interfered with as now she belongs to Extremely Backward Class category. The other argument is that the



principles of natural justice have not been complied with as the order of termination was passed without giving any opportunity of hearing to the appellant.

The learned Single Judge has found that *Lohar* was declared as Extremely Backward Class vide Notification dated 25th March, 2010, whereas the appellant was not appointed on 24.04.2003 when *Lohar* was not in the list of Extremely Backward Class, but a Backward Class, therefore, the post reserved for Extremely Backward Class could not have been filled up by the appellant.

The counter affidavit filed in the writ application has not been controverted by the appellant that she has not been appointed against the post meant for Extremely Backward Class candidate and she was a Backward Class candidate on the date of her appointment. Mere issuance of subsequent Notification dated 25th March, 2010 will not cover up any illegality in the appointment of the appellant as on the date of appointment, *Lohar* caste was a caste belonging to Backward Class and not to the Extremely Backward Class. Such Notification does not have any retrospective effect.

In view of the fact that the appellant belongs to a Backward Class candidate and not Extremely Backward Class



candidate for which the post was reserved in the year 2003, the services of the appellant was found to be rightly terminated by the learned Single Bench. We have no reason to take a different view than taken by the learned Single Bench. Consequently, the Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	N. A.F. R
CAV DATE	N. A.
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