

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.179 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 1852 of 2013
With
Interlocutory Application No. 654 of 2016.**

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Punam Kumari Wife of Dharmendra Singh, Resident of Village- Marachchi, P.S.-
Jamo Bazar, Block- Lakari Naviganj, District- Siwan

.... Petitioner / Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Director, Primary Education, Bihar, Patna
4. The District Magistrate, Siwan
5. The Deputy Development Commissioner, Siwan
6. The District Education Officer, Siwan
7. The District Programme Officer (Establishment), Siwan
8. The Prakhanda Pramukh, Lakari Naviganj, District- Siwan
9. The Block Development Officer, Lakari Naviganj, District- Siwan
10. The Block Education Officer, Lakari Naviganj, District- Siwan
11. The Mukhiya, Gram Panchayat Raj Bhada Khurd, Block- Lakari Naviganj,
District- Siwan
12. The Panchayat Secretary, Gram Panchayat Raj Bhada Khurd, Block- Lakari
Naviganj, District- Siwan
13. The Member, District Teachers Employment Appellate Authority, Siwan
14. Mamta Kumari, D/o Upendra Singh, Resident of village- Marachi, P.S.-Jamo
Bazar, District- Siwan

.... Respondents / Respondents

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Appearance:

For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate.

For the Respondents-State: Mr. Ravi Verma, AC to GP 4.

For the Respondent No.12: Mr. Arbind Kr. Singh and
Mr. Ajay Kr. Pandey, Advocates.

For the Respondent No.14: Mr. Shyama Kant Singh and
Mr. Bipin Bihari Singh, Advocates.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 02-03-2017



Re. I.A. No. 654 of 2016.

The application is for condonation of delay of 3 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 3 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 654 of 2016 is allowed and delay of 3 days in filing the Letters Patent Appeal is condoned.

Re. L.P.A. No. 179 of 2016.

The challenge in the present Letters Patent Appeal is to an order dated 28.08.2015 passed by the learned Single Bench of this Court in CWJC No. 1852 of 2013, whereby the Writ Application filed by the appellant against the order passed by the District Teachers Employment Appellate Authority on 08.09.2012 remained unsuccessful.

2. The appellant and one Mamta Kumari were the candidates for appointment of Shiksha Mitra. Mamta Kumari was appointed as Shiksha Mitra in the year 2005 on the basis of the comparative higher merit. The appellant did not challenge her appointment soon thereafter but submitted a representation to the



District Teachers Employment Appellate Authority on 25.09.2010. The ground of challenge was that a candidate with lesser marks and with lesser age has been appointed and in violation of the roster point. Such appeal was dismissed by the District Teachers Employment Appellate Authority on 08.09.2012. It is the said decision which was challenged in the Writ Application and the writ applicant has remained unsuccessful.

3. The appellant was a candidate for appointment of Shiksha Mitra but has not challenged the appointment of Mamta Kumari soon after the appointment was made but has challenged her appointment after five years when in the meantime Bihar Panchayat Primary Teachers (Appointment and Service Condition) Rules, 2006 came to be published. By the said 2006 Rules, the post of Shiksha Mitra was abolished and all Shiksha Mitras, who were appointed, were designated as Panchayat Teachers with effect from 01.07.2006.

4. A Full Bench of this Court in ***Kalpana Rani v. State of Bihar & Ors.*** [2014 (2) PLJR 665] has held that appointment of Shiksha Mitra cannot be challenged after promulgation of 2006 Rules. Still further we find that the appellant has not taken any action soon after the appointment of Mamta Kumari as Shiksha Mitra. Her father-in-law made a representation but such a representation cannot be treated on behalf of the appellant as the appellant as a major has to



espouse her own cause. Therefore, on account of delay and laches in impugning the appointment of Mamta Kumari and also in view of the Full Bench judgment of this Court in the case of *Kalpana Rani* (Supra), we do not find any error in the order passed by the learned Single Judge. The appeal is thus dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Dilip/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	

