

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2224 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 9806 of 2013**

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Manju Kumari @ Smt. Manju Devi, wife of Sri Indradeo Yadav, resident of village
Laldev Dih Jamo Kharaiya, P.O. Gangna, P.S. Jhajha, District Jamui.

.... Appellant

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Munger, District Munger.
3. The Collector cum District Magistrate, Jamui, District Jamui.
4. The District Programme Officer, Jamui, District Jamui.
5. The Child Development Project Officer, Jhajha, District Jamui.

.... Respondents

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Appearance:

For the Appellant/s :

For the Respondent/s :

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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: 16-02-2017

Re.: I.A. No. 9671 of 2015

This application is for condonation of delay of 23 days
in filing the Letters Patent Appeal.

For the reasons mentioned in the Interlocutory
application, we are satisfied that the appellant has shown sufficient
cause to seek condonation of delay in filing the present Letters Patent



Appeal.

Consequently, Interlocutory Application is allowed and delay in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 2224 of 2015

The challenge in the present letters Patent Appeal is to an order passed by the learned Single Bench on 13th of May, 2014 whereby, the removal of the appellant as Anganwari Sevika was not interfered with.

2. The appellant was served with a show cause notice on 16th of August, 2011 that the centre was inspected at 11:40 a.m. and that there was no trace of any centre. The enquiry from the villagers led to the information that she was running the centre at her home and that site in question was never functional.

3. Subsequently on 09th of September, 2011, the appellant was served with a show cause notice as to why she should not be removed from her services, as on 16.8.2011, the date for distribution of take home ration, the centre was found closed.

4. In reply to the show cause notice, the stand of the appellant was that the allegation levelled against her is incorrect, as she was present at the centre.

5. After considering the reply, the Distinct Programme Officer passed an order on 17.10.2011 for removal of the appellant as



Anganwari Sevika, inter alia, on the ground that on 16.8.2011, the centre was found closed though that was the date of distribution of take home ration.

6. It was also found as per the report that the centre was always lying closed and that at the site, there was no trace that the centre was ever functional.

7. The appeal before the Divisional Commissioner remained unsuccessful. Still aggrieved, the appellant invoked the writ jurisdiction of this Court. In the writ application, for the first time, she made allegation that the Child Development Project Officer was changed in the year 2011 and that the changed officer harassed the petitioner and manipulated the report. But the officer who was discharging the duties of Child Development Project Officer was not impleaded as a party.

8. Since there is allegation of *mala fide* against the officer but not levelled in reply to the show cause notice, more so levelled for the first time in the writ application, but without impleading the officer, therefore, we find that the allegation of *mala fide* levelled in the writ application is after thought. Since the appellant has been found absent on the date of inspection and also the report is that the centre was never functional, we do not find that the appellant is entitled to any indulgence in the present Letters Patent



Appeal.

9. Accordingly, the Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Mishra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2017
Transmission Date	

