

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.228 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 14017 of 2015**

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Chandeshwar Prasad, Son of Sri Jhauri Sah, Resident of village - Itahari, Post - Belhi, P.S. Marauna, District - Supaul

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
3. The Director, Primary Education, Education Department, Government of Bihar, Patna
4. The District Magistrate, Supaul
5. The District Education Officer, Supaul
6. The District Programme Officer, Eastablishment, Supaul
7. The Block Development Officer, Marauna, District - Supaul
8. The Block Education Officer, Marauna, District - Supaul
9. The Headmaster, Primary School, Sakhua, Block - Marauna, District - Supaul
10. The Panchayat Secretary-Cum-Member Secretary Panchayat Teacher Appointment Unit, Lalmaniya, Block - Marauna, District - Supaul

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manish Kumar No 13, Advocate

For the Respondent/s : Mr. Mrigendra Kumar, A.C. to G.A. 4

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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: 25-01-2017

Re.:I.A. No. 884 of 2016

The application is for condonation of delay of 35 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 35 days in filing the present



Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 884 of 2016 is allowed and delay of 35 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 228 of 2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 4th of September, 2015 in C.W.J.C. No. 14017 of 2015 whereby, the order of cancellation of appointment of the appellant on 30th of July, 2015 was not interfered with in the writ application.

3. The appellant was appointed as Panchayat Teacher in the Primary School under Bihar Panchayat Primary Teacher (Appointment and Service Conditions) Rules, 2012 (hereinafter referred to as “the Rules”) in the year 2014. The appellant is Up-Shastri from Kameshwar Singh Darbhanga Sanskrit University, Darbhanga. Clause (i) of Rule 5 of such Rules provides conditions of appointment to the Primary Schools i.e. for Classes- 1 to V whereas, Clause (ii) provides eligibility conditions for Middle Schools i.e. Classes VI to VIII. The appellant was appointed as Primary Teacher in a Primary School. The conditions of eligibility are contained in Clause (a) and (b) but there is no disqualification for appointment of a



person holding Up-Shastri qualification. Such disqualification is in respect of Clause (ii) i.e. of Middle Schools for Classes VI to VIII as Clause (ii) (f) contemplates disqualification of equivalent of technical degree of Polytechnic, *Unani* and *Maulvi* and *Up-Shastri*. Since the appointment of the appellant was against the post of a Panchayat Teacher for a Primary School, therefore, the *Up-Shastri* qualification is not a disqualification for appointment in terms of Rule 5(i) of the Rules. The disqualification is only for teachers in the Middle Schools.

4. Consequently, the Letters Patent Appeal and the writ application are allowed and the orders passed by the learned Single Bench and the impugned order dated 30th of July, 2015 are set aside. The appellant is ordered to be reinstated forthwith.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	28.01.2017
Transmission Date	

