

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.239 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 4044 of 2015**

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Amit Kumar, Son of Rajendra Prasad Choudhary, Resident of village & P.O. Chilh,
District - Mirzapur (U.P.) Pin Code 23131, At Present Residing at Flat No. 301,
Dev Sharan Griham Apartment, Vijay Nagar, Bailey Road, Patna 80001 (Bihar)

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Bihar, Patna
2. Principal Secretary, Road Construction Department, Visheshwaria Bhawan, Bailey Road, Patna (Bihar)
3. Chief Engineer - Cum - Enquiry Officer, South Bihar, Road Construction Department, Visheshwaria Bhawan, Bailey Road, Patna (Bihar)
4. Chief Engineer (Mechanical) Mechanical Wing, Road Construction Department, Visheshwaria Bhawan, Bailey Road, Patna (Bihar)
5. Superintending Engineer (Mechanical), N.H. Mechanical Circle, Visheshwaria Bhawan, Bailey Road, Patna (Bihar)
6. Deputy Secretary (Vigilance), Road Construction Department, Visheshwaria Bhawan, Bailey Road, Patna (Bihar)
7. 7. The Mukhiya Gram Panchayat Marba, PO- Marba, Police Station and Block Bihpur ,District Bhagalpur.
8. The Panchayat Secretary, Gram Panchayat Marba, PO- Marba, Police Station and Block Bihpur ,District Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mrs. Shashi Priya Pathak, Advocate
Mr. Rajesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Sunil Kumar, AC to GA-12

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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: 31-01-2017

I.A. No.937 of 2016

The application is for condonation of delay of 273



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 in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 937 of 2016 is allowed and delay in filing the Letters Patent Appeal is condoned.

L.P.A. No.239 of 2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 24th of March, 2015 in C.W.J.C. No. 4044 of 2015 whereby, the writ application filed by the writ applicant claiming appointment to the post of Panchayat Shiksha Mitra and, consequently, as Panchayat Teacher remained unsuccessful.

2. The appellant, a general category candidate, was initially appointed as Panchayat Shiksha Mitra on 15th of May, 2005. Subsequently, it was found that only one post is meant for general category candidate and the other is reserved for backward class. Consequently, one Gopal Prasad Gupta was appointed against the post meant for backward class. Therefore, on account of an alleged



mistake, the service of the appellant was terminated after serving as Panchayat Shiksha Mitra for eight months. In the meantime, on 1st of July, 2006, “Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2006 (for short “2006 Rules”) came into force which gave the status of Panchayat Teacher to all the Panchayat Shiksha Mitras. Since the appellant was not working on 1st of July, 2006, and the post of Shiksha Mitra was not in existence, the appellant was not given any benefit.

It was on 18th of June, 2008 (Annexure-5) that District Education Officer noticed the fact that, in fact, the Mukhiya has stated that he has not understood the roster which was to be followed and, in fact, Gopal Prasad Gupta was wrongly appointed. Thus, it is argued that the second post, against which Gopal Prasad Gupta was appointed, is required to be filled up by the appellant.

3. We do not find that the appellant is entitled to claiming any benefit against the post of Panchayat Shiksha Mitra in view of Full Bench judgment reported as Kalpana Rani vs. The State of Bihar 2014 (2) P.L.J.R. 665 wherein it has been found that after promulgation of 2006 Rules, the Panchayat Shiksha Mitra cannot claim appointment as a Panchayat Teacher.

4. In view of the Full Bench judgment in Kalpana



Rani’s case (Supra), we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.02.2017
Transmission Date	N/A

