

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1336 of 2014
IN
Civil Writ Jurisdiction Case No. 1156 of 2013**

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Khushbu Kumari daughter of Vinod Kumar, R/O Vill-Pirapur, Block Office-Bandra, P.S.-Peyar, Distt-Muzaffarpur

.... Appellant

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
2. The District Magistrate, District-Muzaffarpur
3. The Head of Department, Department of ENT (Ear, Nose, Throat), Sri Krishna Medical College & Hospital, Muzaffarpur
4. The Civil Surgeon-Cum-Chief Medical Officer, Muzaffarpur
5. The District Education Officer, District- Muzaffarpur
6. The Program Officer (Establishment) Education Department, Muzaffarpur
7. The Block Development Officer, Block Office Bandra, District- Muzaffarpur
8. The Block Education Extension Officer, Block Office Bandra, District-Muzaffarpur
9. The Pramukh-cum-Chairman of Block Teacher Appointment Committee, Block Office Bandra, District- Muzaffarpur
10. Chandan Kishore, son of Sri Umesh Prasad Thakur, Resident of Village-Kharauna, P.S.- Sakra, District- Muzaffarpur

.... Respondents

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Appearance :

For the Appellant : Mr. Anil Kumar, Advocate
For the Respondent State: Mr. Raghwendra Kumar, SC-22
For the Respondent No.10: Mr. Pratyush, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 27-04-2017

Heard counsel for the parties.

The writ application filed on behalf of the appellant was dismissed by the learned single Judge on 01.08.2014. The primary reason why the learned single Judge did not get moved to allow the writ application was because the private respondent, Chandan



Kishore, came to be appointed as a Panchayat Teacher in August, 2010, but the appellant moved the District Teachers Employment Appellate Authority in April, 2012. The Court, therefore, felt that settled position ought not to be unsettled merely at the asking at the convenience of a litigant and, therefore, the writ was dismissed.

No doubt, there has been delay in asserting one's right before the appellate authority. The learned single Judge had observed that the appellant had adequate knowledge and information on this issue.

In appeal, a plea is taken in addition that the appointment, which was offered to the private respondent, ought not to have been offered in the very first place because there is evidence on record to show that when appointment was made of the private respondent, it did not have valid certification of being physically handicapped and in absence of the same, he was not eligible to be appointed in the very first place.

The Court has gone through the documents, which is available on record and also annexed by the appellant. The medical board examined the private respondent on 14.01.2009 and certification was done with regard to his being hearing disabled to the extent of 50%. However, there seems to be a delay between the opinion recorded by the medical board and formal issuance of



certification showing him to be disabled and the same was produced after his short-listing for the counselling.

The disability and the certification is not a matter of dispute. Only the formality of production of a formal certificate showing disability was delayed. That cannot be used for robbing the private respondent of the advantage of such appointment. What was the reason for the appellant not to fight for her right, at the first opportune moment, is also not fully explained. However, a stand is taken that time was wasted in trying to find information under Right to Information Act. That cannot be a ground for the kind of extended delay in agitating the issue.

The Court is not inclined, in the given facts, to interfere with the order dated 01.08.2014 passed by the learned single Judge, who has dismissed the writ application and whose order is under challenge in appeal.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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