

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1558 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 145 of 2014**

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Nitu Kumari @ Nitu Devi, Wife of Dinesh Tiwary, Resident of Village- Rasulpur,
P.S.- Rasulpur (Ekma), District- Saran at Chapra earlier working as 'Gram
Kachahari Sachiv' under the Rasulpur Gram Kachahari (Ekma), District- Saran at
Chapra

.... Appellant/s

Versus

1. The State of Bihar through its Principal Secretary, Panchayat Raj Department,
Government of Bihar, Patna
2. The District Magistrate, Saran at Chapra
3. The Sub-Divisional Magistrate, Sadar Chapra
4. The District Panchayat Raj Officer, Saran at Chapra
5. The Block Development Officer, Ekma, District- Saran at Chapra
6. The Sarpanch Gram Kachahari Rasulpur (Ekma), District- Saran (Chapra)
7. The Mukhiya, Gram Panchayat Raj Rasulpur (Ekma), Distt- Saran
8. Ragini Devi, Wife of Sanjay Kumar Thakur, Resident of village- Rasulpur,
P.S.- Rasulpur (Ekma), District- Saran (Chapra)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Choudhary, Advocate
Mr. Anil Kumar Tiwary, Advocate
Mr. Akshansh Ankit, Advocate
For the Respondent/s : Mr. Ajay Behari Sinha, G.A.8
Mr. Suryakant Kumar, A.C. to G.A.8

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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: 08-02-2017

Re.:I.A. No. 7014 of 2015

The application is for condonation of delay of 73 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 73 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 7014 of 2015 is allowed and delay of 73 days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 1558 of 2015

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 3rd of February, 2015 in C.W.J.C. No. 145 of 2014 whereby, the challenge to an order dated 10th of June, 2012 (Annexure-6) passed by the District Magistrate, Chapra, remained unsuccessful.

3. The appellant was appointed as Secretary, Gram Kachahari, Rasulpur Gram Panchayat, District- Saran at Chapra on 25th of November, 2007. Against the appointment of the appellant, a



complaint was filed by Respondent No. 8 on 30th of December, 2008 that the appellant is not a resident of Rasulpur Gram Panchayat but is a resident of Baghawna Gram Panchayat in the District of Siwan. The Sub-Divisional Officer, Sadar, Chapra passed an order on 17th of September, 2009 finding that appellant is resident of Saran district and was eligible for the post. Against the said order, an appeal was filed by Respondent No. 8 which was allowed by the order impugned in the writ application.

In the said order it has been found that the appellant had two residence certificates obtained in the year 2006; one of Siwan and another of Saran and she applied on the basis of such certificates to the Gram Panchayats in the two separate districts. She was appointed in a Gram Panchayat falling within the jurisdiction of Chapra district at Saran in the year 2007. Though the appellant has got cancelled the residence certificate issued to her in respect of residence of Siwan in the year 2008 but since on the date of appointment the appellant has applied for appointment as a resident of two places, therefore, her appointment as resident of Rasulpur on the basis of her claim of resident of Rasulpur is not legal.

4. The argument of learned counsel for the appellant is that the appellant is a rustic villager as such she committed this mistake but such mistake was not intentional and she has not taken any undue



advantage of the residence certificate in respect of her residence in the district of Siwan and the fact that she got the residence certificate of Siwan cancelled subsequently shows that the appointment of the appellant in a district of Saran at Chapra is not illegal.

5. Admittedly, in terms of the order passed by the District Magistrate, the Respondent No. 8 stands appointed being next in the merit-list. The appellant does not dispute that the appellant has obtained two residence certificates in the year 2006 in respect of residence of Saran at Chapra and Siwan. She applied on the basis of those certificates in two different districts. Since one person cannot be a resident of two different places at the same time, therefore, the learned District Magistrate has rightly accepted the appeal setting aside the appointment of the appellant. The learned Single Bench has not interfered with the order passed by the learned District Magistrate.

6. We find that the opinion of the learned District Magistrate is a plausible finding on the facts of the case which has not been interfered with by the learned Single Bench. We do not find that any other opinion is warranted in the matter.

7. Since the appellant is now claiming to be a resident of one district, it is open to her to apply for appointment in Rasulpur Gram Panchayat as and when any post is advertised in accordance with law.



8. Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	10.02.2017
Transmission Date	

