

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.673 of 2016

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Kumari Renu, Wife of Wakil Prasad, Resident of Village-Sheetalrampur, P.S.-
Bakhari, District- Begusarai.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Department of Health through its Principal Secretary, Govt. of Bihar,
Patna.
3. The Civil Surgeon, Begusarai.
4. The Incharge Medical Officer, Primary Health Centre, Garhpura, Begusarai.
5. Bina Kumari, Wife of Pravin Kumar Sinha, Resident of Village- Sheetalrampur,
P.S.- Bakhari, District-Begusarai.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Ambika Bhagat, Advocate.

For the Respondent/s : Mr. K.P.Yadav, GP-11.

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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: 06-03-2017

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 10th of March, 2016 whereby, the writ application was dismissed. The challenge in the writ application was to the appointment of respondent no.5 as Asha Facilitator. For every 20 Asha workers, one Asha Facilitator is contemplated in terms of the scheme of engagement of Asha Workers.

Asha workers are engaged in Centrally Sponsored Schemes. Engagement of Asha workers is to help the expecting mothers for the safe delivery of the child. It is not a post under the



State, but under a scheme.

The respondent no.5 was selected as Asha Facilitator in a meeting held on 23rd of August, 2012 attended by 20 Asha workers including the appellant whose name appears at Serial No.10 of the proceedings attached with the counter affidavit as Annexure-C.

Learned Single Bench dismissed the writ application on the ground that Asha Facilitator is not a post under the State, but it is a kind of voluntary engagement, meant for facilitating the safe delivery of expectant mother in the nearest primary health centre.

Learned counsel for the appellant vehemently argues that the date of birth of respondent no.5 is 02.02.1976, whereas she has given birth to a child whose date of birth is 13.12.1981. He relies upon a document at page-18 and 19 of the paper book, therefore, her appointment is based upon forged or fabricated documents.

We do not find merit in the argument raised. The document at Page-18 and 19 does not disclose the name of the mother as that of respondent no.5. In fact, it discloses the name of the father of the child as Praveen Kumar. There is no assertion in the writ application that Praveen Kumar, the father of the child, is the husband of respondent no.5. There is no assertion in the writ application that the respondent no.5 has given birth to a child on 13.12.1981. There is also no assertion that she has given any



misleading statement at the time of appointment.

We find that such an argument cannot be accepted in the absence of any pleadings in respect of birth of a child to respondent no.5 in the manner argued before this Court. It is an argument raised without any factual assertion in the writ application. Consequently, we find no merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Mishra

AFR/NAFR	A.F.R.
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