

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.699 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 16023 of 2012**

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Archana Kumari, W/o - Shakti Kumar, Resident of Village - Chaitya (South) Anchal
- Ujiarpur, Dist - Samastipur.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Muzaffarpur.
3. The District Magistrate, Samastipur.
4. The Sub Divisional Magistrate, Dalsingsarai
5. The District Welfare Officer, Samastipur.
6. The Child Development Project Officer, Ujiarpur, Dalsingsarai, Dist -
Samastipur.
7. The Block Development Officer, Ujiarpur.
8. The Mukhiya, Gram Panchayat Raj, Chaitya (South) Anchal Ujiarpur.
9. Smt. Abha Kumari, W/o Sri Sanjeev Kumar Panday, R/O Village - Chaitya
(South), Anchal - Ujiarpur, Dist - Samastipur.

.... Respondent/s

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Appearance :

For the Appellant	:	Mr. Bijay Shankar Choubey, Advocate Mr. Abhimanyu Sharma, Advocate
For the State	:	Mr. Dev Kumar Pandey, A.C. to G.P. 2 Mr. Gyan Shankar, A.C. to G.P. 2
For Respondent No. 9	:	Mr. Ajeet Kumar, Advocate Mr. Shailendra Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-04-2017

In the matter of appointment of Anganwari Sevika held in the year 2007, appellant for the first time challenged the appointment after three years by filing a writ petition directly before this Court. The writ petition was disposed of vide order passed on 09.11.2011 in C.W.J.C. No. 10791 of 2010 vide Annexure-5 granting



liberty to the appellant to take recourse to the remedy of filing appeal. An appeal was thereafter filed before the Collector, Samastipur, the Appellate Authority, and vide order dated 26.06.2012 the appeal was dismissed. In the appeal, one of the grounds or rather the only ground taken was that the Intermediate qualification obtained by the respondent Smt. Abha Kumari is from an institute which is not recognized and, therefore, it cannot be considered. The learned Appellate Authority took note of this and found that for appointment to the post in question, the minimum qualification is that a candidate should have passed Matriculation and even if the Intermediate qualification is ignored, respondent gets 57.1 marks more than the appellant who obtained 54.42 marks in the Matriculation examination. Taking note of this and various other factors, the appeal was dismissed and the same has been upheld by the learned Writ Court. Before us, apart from canvassing the same grounds which has been consistently rejected by the Appellate Authority and the Writ Court, certain affidavits have been filed to show that the Intermediate certificate obtained by the respondent is a forged document and a First Information Report has been registered against her, we are of the considered view that these materials adduced before us now by way of supplementary affidavit were neither the material before the appellate authority when the matter was considered in the year 2011 nor before



the Writ Court when the matter was agitated in the year 2012 and decided on 16.01.2014. The Writ Court and the Appellate Authority having considered the inter se merit of the candidate based on the qualifying marks obtained in the Matriculation and finding the more meritorious candidate to have been appointed has not committed any error in rejecting the claim of the appellant, we find no case for interference. That apart, we are of the considered view that when the appointment was held in the year 2007, the appellant having slept over for three years and having challenged the appointment in the year 2010, the authorities should not have gone into the merits of the matter but should have dismissed the appeal only on the ground of delay of more than three years.

The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	02.05.2017
Transmission Date	

