

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.168 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 5451 of 2015
Along with Interlocutory Application No.612 of 2016**

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Manju Kumari @ Manju Devi daughter of Shri Naryan Choudhary, wife of Shri Bharat Lal Choudhary, resident of Village- Gauripur, P.O Rajakpur, Police Station- Nawkothi, District- Begusarai, Fulltime teacher in Kasturba Gandhi residential Girls School Kankaul, Anchal & District- Begusarai.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department (now Education Department), Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The State Project Director, Bihar Education Project Council, Patna.
5. The District Magistrate, Begusarai.
6. The District Education Officer, Begusarai.
7. The District Programme Officer (Primary Education and Sarv Shiksha Abhiyan), Bihar Education Project, Begusarai.
8. The Block Development Officer, Begusarai.
9. The Secretary, Kasturba Gandhi residential Girls School, Kankaul, District Begusarai.
10. The Headmaster, Kasturba Gandhi Balika Vidyalaya, Kankaul, District Begusarai.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Kumar Mishra, Advocate
For Bihar Education Project : Mr. Girijesh Kumar, Advocate
For the State : Mr. Rakesh Prabhat, AC to SC-21

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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: 04-02-2017

Re: Interlocutory Application No.612 of 2016:

The application is for condonation of delay of 74 days
in filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find
that sufficient cause is made out for condonation of delay.
Consequently, we condone the delay in filing of the present Letters



Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re: Letters Patent Appeal No. 168 of 2016:

The challenge in the present Letters Patent Appeal is to an order passed by a learned Single Bench on 27th April, 2015 whereby the writ application filed by the appellant was dismissed as not maintainable in view of the nature of selection, appointment and engagement.

The appellant claims that an advertisement was published in the year 2006 for selection of Warden and after following due procedure she was selected. The grievance of the appellant is that her services have been terminated on 6.1.2015 by a cryptic order and without giving any show cause.

The appellant has not disclosed the date of advertisement and the Newspaper in which it was published. In the absence of such basic assertions, it is not possible to accept the bald statement that there was an advertisement and the appellant was selected after due procedure. In fact, the appellant relies upon a communication dated 7th of November, 2006 which does not make any reference to advertisement but contains an assertion that there was written and oral test in pursuance of which she was appointed and because of her love, care and interest in teaching, she has been confirmed. Such communication does not show that



there was an advertisement and that after selection from amongst the candidates so applied, the appellant was selected. On the other hand, the impugned order, Annexure-2 to the writ application, shows that the appellant was appointed on contract basis and her services have been terminated by the District Employment Committee in its meeting held on 24th November, 2014. Since the appointment of the appellant is not proved to be regular after due procedure, we have no reason to doubt the correctness of the order, Annexure-2, whereby the services of the appellant were dispensed with.

In view thereof, we do not find any error in the order passed by the learned Single Bench which will warrant interference in this intra Court Appeal.

The appeal is thus dismissed.

(Hemant Gupta, ACJ)

S.Pandey/-

(Sudhir Singh, J)

AFR/NAFR	NAFR
CAV DATE	NA
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