

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1260 of 2014

In
Civil Writ Jurisdiction Case No. 20982 of 2012

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Baby Kumari Wife of Sri Diwakar Kumar, resident of village -
Kapsiyawan, P.S. Hilsa, District – Nalanda.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Collector, Nalanda.
3. The District Programme Officer, Nalanda.
4. The Sub Divisional Officer, Hilsa, Nalanda.
5. The Child Development Project officer, Hilsa, District – Nalanda.
6. Mr. Suchitra Kumari Wife of Pawan Kumar Santosh, resident of village –
Kapsiyawan, P.S. Hilsa, District – Nalanda.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Tiwari, Adv.
For the State : Mr. M.N. Khan, SC-1
Mr. Md. Naushaduzzoha, AC to SC-1,
For Respondent No. 6 : Mr. Kumar Alok, Adv.

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

7 22-06-2017

Interlocutory Application No. 6855 of 2014

Heard parties.

This interlocutory application has been filed for
condoning the delay of 147 days in preferring this appeal.

No counter affidavit has been filed on behalf of the
respondents to this interlocutory application.

From perusal of the averments made in the
interlocutory application it appears that the appellant was



prevented from sufficient cause in preferring this appeal within time.

Accordingly, this interlocutory application is allowed and delay of 147 days in preferring this appeal is condoned.

Letters Patent Appeal No. 1260 of 2014

Heard parties.

This appeal has been preferred against the order dated 06.02.2014 passed by the learned single Bench of this Court in C.W.J.C. No. 20982 of 2012 by which the plea of the petitioner was not accepted and the writ petition was dismissed.

It appears that the appellant was initially appointed as Anganwari Sevika by the concerned competent Gram Sabha on 6th July 2005. However, certain complaints were being made and C.W.J.C. No. 417 of 2006 was filed by Respondent no. 6 against such appointment as no decision could be taken by the competent Authority on the complaints made against the appointment of the petitioner. It further appears that several such writ petitions including C.W.J.C. No. 417 of 2006 were disposed of by the learned single Bench of this Court by passing a common judgment dated 16.07.2007 appended as Annexure R6/5 to the counter affidavit filed on behalf of Respondent no.6 in which direction was given to the District Magistrate to examine the matter and



take a decision and if any fault is found then fresh appointment be made.

Learned counsel for the respondents have drawn attention of this Court to the relevant portion of the order and on such order, the District Magistrate considered the matter and passed the impugned order dated 04.10.2012 (Annexure-1 to the connecting writ petitions), holding that since the dominant caste/class of concerned area was Extremely Backward Class, the appointment should have been made, not from the General Class as has been done by the Gram Sabha rather from Extremely Backward Class and as such, such appointment was declared invalid and direction was given for fresh appointment on which Respondent no. 6 was appointed. After such appointment, the order of the District Magistrate has been challenged.

The learned single Judge, after hearing the parties, took a decision that the admitted position is that the petitioner is not in Extremely Backward Class category, thus, her appointment should not have been done and as such, no fault could be found in the decision of the District Magistrate.

Having considered the matter, we are of the opinion that since the petitioner did not belong to the dominant class of that area, which was admittedly the pre-condition for appointment



on the post of Anganwari Sevika, no fault can be found in the order passed by the District Magistrate as also in the view taken by the learned single Judge.

Since we do not find any merit in the present appeal, the same is, accordingly, dismissed. However, there shall be no order as to cost.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

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