

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1196 of 2013
IN
Civil Writ Jurisdiction Case No. 15186 of 2009**

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Sunil Kumar Khan Son Of Late Achutanand Khan Resident Of Village- Dhobi Tola, Near Kali Asthan, P.O.-P.S. District- Khagaria

.... Appellant/s

Versus

1. The State Of Bihar
2. District Education Officer Cum Secretary, Zila Parishad Madhyamik Shikshan Niyozan Panel Nirman Smiti, Khagaria
3. District Superintendent Of Education, Khagaria
4. The Secretary, Secondary Education, Human Resources Department, Bihar, Patna
5. Shri Yogendra Pawwan, Member Zila Shikshak Apilya Pradhikar, Khagaria
6. Shri Benktesh Sharma Son Of Sri Tulsi Sharma Resident Of Mohalla- Chitragupta Nagar, Khagaria, P.S.- Sahayak Thana, District- Khagaria

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Gopal Jee, Advocate Mr. Basant Kumar Tripathy, Advocate
For the Respondent/s	:	Mr. Rakesh Narayan Singh, AC to A.A.G.-15

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-01-2017

Heard learned counsels for the parties.

I. A. No. 6929 of 2013 is allowed, which is for condonation of delay in filing of appeal by 136 days.

The appellant was also the petitioner before the Learned Single Judge in C. W. J. C. No. 15186 of 2009. The said writ application came to be decided on 27.02.2013. The writ court after hearing the appellant dismissed the writ application, refusing to



interfere with the appointment of private-respondent no. 6 on the post of Panchayat Teacher.

It seems that the manner in which the selection was done of the appellant by the employment authority, i.e., by the Sukh Suvidha Committee created all kinds of controversies. There was a vigilance enquiry also. The vigilance gave its report and pointed out the illegality committed in such appointment and selection of this appellant, as well as others.

The private-respondent no. 6 approached the District Teachers Employment Appellate Tribunal, making grievance against his non-selection, even though he was a trained candidate and had better marks as well as the status viz-a-viz the present appellant.

The District Teachers Employment Appellate Tribunal went through the entirety of the materials and the records as well as the report of the vigilance and came to a considered opinion that the private-respondent no. 6 was illegally denied opportunity of counseling as well as the participation, though he had the best claim for such appointment, by virtue of being a trained teacher.

The Tribunal, therefore, gave a direction in favour of the private-respondent and that order became the subject matter of challenge by the appellant before the Learned Single Judge.

The writ court has gone through the materials and categorically held that the right of the private-respondent cannot be defeated in the manner in which it was done. He had B.Ed. training,



which he had obtained in the year 1992 from a university. An effort was made to assail the validity of the degree as well, but that has been brushed aside by the Learned Single Judge that the said degree has obtained prior to coming of the National Teacher Education Council Act and, therefore, has due validity.

The Court, therefore, has rightly held in favour of the decision of the Tribunal and dismissed the writ application being devoid of merit.

The order of the Learned Single Judge does not suffer from any illegality, therefore, the appeal is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
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