

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2161 of 2016
IN
Civil Writ Jurisdiction Case No. 11980 of 2013**

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1. Niraj Kumari W/O Anand Kumar Singh and D/O Late Madhusudan Singh R/O Village + P.O. - Nonfarwa, P.S. - Patahi, District - East Champaran.

.... Appellant/s

Versus

1. The State of Bihar.
2. That Principal Secretary, Education Department, Bihar, Patna.
3. The Director Primary Education, Bihar, Patna.
4. The Regional Deputy Director Of Education, Tirhut Division, Muzaffarpur.
5. The District Magistrate, East Champaran, Motihari.
6. The Education, Education Officer, East Champaran, Motihari.
7. The Mukhiya-Cum-Chairman, Panchayat Employment Committee, Gram Panchayat Raj, Nonfarwa, P.S. Patahi, District - East Champaran.
8. The Panchayat Secretary, Gram Panchayat Raj, Nonforwa, P.S. - Patahi, District - East Champaran.
9. Kumar Om Prakash S/O Birendra Kumar Singh R/O Village -Tatansayar, P.S. - Patahi, District - East Champaran.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manish Kumar -3, Advocate

For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-07-2017

Seeking exception to an order dated 20.10.2016 passed by the learned Writ Court in C.W.J.C. No.11980 of 2013, this appeal has been filed under Clause 10 of the Letters Patent.

Having heard learned counsel for the parties, we find that the concurrent orders passed by the learned Appellate Tribunal and the learned Writ Court are challenged before us and it is found that the respondent No.9 having obtained 78.60% marks and being



more meritorious than the petitioner who had obtained only 60.11% marks was directed to be appointed.

As a more meritorious person is directed to be appointed on the post in question, we see no reason to make any indulgence merely on the technical ground that when the provisional select list was prepared, private respondent No.9 did not raise any objection. Merely because he did not raise any objection with the competent authority when the provisional select list was prepared, his right to challenge the selection is not taken away and if while exercising this right the appellate authority found a more meritorious candidate to have been ignored in granting appointment and, therefore, directed appointment, which order has been upheld by the learned Writ Court, we see no reason to make any indulgence.

This appeal, being devoid of merit, is accordingly dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
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