

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1335 of 2018

In
Civil Writ Jurisdiction Case No.18258 of 2017

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Jitendra Kumar, son of Naresh Prasad, Resident of Village-Ghora Katora,
Giriyak, P.O.-Giriyak, P.S. Giriyak, District-Nalanda (Bihar), Pin Code-
803109

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The District Magistrate, Nawada, District-Nawada (Bihar)
4. The District Programme Officer, Nawada, District-Nawada (Bihar)
5. The Child Development Project Officer, Kauakol, District-Nawada(Bihar)

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Choudhary, Advocate Mr. Bhola Kumar, Advocate Mr. Akshansh Ankit, Advocate
For the State	:	Mr. Gyan Prakash Ojha, G.A.-7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 27-11-2018 Heard Shri Ashok Kumar Choudhary, learned counsel for the appellant and Shri Gyan Prakash Ojha, learned G.A.-7 for the respondent-State.

The appellant has come up questioning the correctness of the judgment dated 4th of September, 2018, whereby learned Single Judge in a writ petition (C.W.J.C. No.18258 of 2017) preferred by the appellant has held that the appellant had obtained his engagement as a Statistical Assistant in the Social



Welfare Department with the aid of a fake certificate said to have been issued by T.S. College, Hisua. The same has been treated to be a disputed question of fact on the challenge raised and the grounds taken in the writ petition but, at the same time, the writ petition has been dismissed on merits as well by concluding that the finding recorded by the Collector has to be accepted as the certificate depicts the manner in which the appellant has tried to obtain his appointment through the selection on the post in question.

Learned counsel for the appellant has urged that the learned single Judge has completely omitted to consider the flip side of the coin, namely, the evidence filed by the appellant supporting his initial engagement and his educational qualification, that he acquired from the D.A.V. College, which is an institution affiliated to the Chatrapati Sahuji Maharaj University, Kanpur. The contention is that this aspect of the matter has neither been considered by the District Magistrate, Nawada, who passed the impugned order on 19th November, 2017, giving rise to this controversy nor this aspect has been dealt with by the learned Single Judge. It is, therefore, submitted that the impugned judgment omits to consider the relevant facts and the order of the Collector under challenge proceeds on non-



consideration of relevant material, which amounts to perversity. It is, therefore, urged that the impugned judgment as well as the order of the Collector deserves to be set aside and the appellant deserves to be continued on the post in question.

Shri Ojha, learned counsel for the State contends that the existence of the alleged fake certificate could not be disputed but at the same time, he is unable to justify the non-recording of the reasons by the Collector, Nawada as also by non-consideration of the relevant educational certificates, that were on record filed on behalf of the appellant.

Having considered the submissions raised, the first ground on which the appellant deserves to succeed is that the Collector has drawn an abrupt conclusion without recording any reasons in the order dated 19th November, 2017 and without having any evidence on record relating to the educational qualification of the appellant. Secondly, the impugned judgment of the learned single Judge also omits to consider the plea which was specifically raised with an aid of a large number of documents that were filed, particularly the fact that the appellant's initial engagement and then his continuance from one section to another was not questioned for almost more than three years. It was only on *mala fide* and motivated application



moved by a learned Advocate that the entire exercise was undertaken and the appellant came to be non-suited. We cannot appreciate the manner in which the appellant has been sent back home and consequently, for all the reasons recorded herein above, we allow the appeal, set aside the impugned judgment of the learned Single Judge dated 4th September, 2018 as also the order of the Collector, Nawada, dated 19th November, 2017 and direct that the appellant shall be allowed to continue on the post of Statistical Assistant, in accordance with the rules.

The respondents are further directed that they shall allow the appellant to continue and shall accommodate him irrespective of any subsequent selection having been made.

The present appeal is allowed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

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