

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.180 of 2018

In
Civil Writ Jurisdiction Case No.4134 of 2014

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Md. Akhtar Ali, son of Safi Ansari @ Liakat Ali, resident of Village-Bangra (East), P.O.-Dumarsan Bangra, P.S.-Masarakh, & District-Saran.

... Petitioner... Appellant

Versus

1. The State of Bihar through Principal Secretary, Department of Human Resources, Government of Bihar, New Secretariat, Bailey Road, Patna.
2. The Director, Primary Education, Department of Human Resources, Government of Bihar, New Secretariat, Bailey Road, Patna.
3. The Deputy Director, Primary Education, Department of Human Resources, Government of Bihar, New Secretariat, Bailey Road, Patna.
4. The District Magistrate at Chapra, District-Saran.
5. The District Programme Officer at Chapra, District-Saran.
6. The Block Education Officer and Block Development Officer at Marhaura, District-Saran.
7. The Mukhiya, Gram Panchayat Raj Bangra, P.O.-Dumarsan Bangra, District-Saran.
8. The Secretary, Gram Panchayat Raj Bangra, P.O.-Dumarsan Bangra, District-Saran.
9. District Teacher's Appointment Authority, Chapra, Saran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Nalin Kumar
For the Respondent/s : Mr. Ashutosh Ranjan Pandey -Aag15

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

(Per: HONOURABLE THE CHIEF JUSTICE)

4 11-12-2018

Re.: I.A. No. 6817 of 2018

Heard Shri Nalin Kumar, learned counsel for the
appellant and Shri Amarendra Kumar, learned A.C. to A.A.G.-
15.

Limitation petition is supported by averments
explaining the delay. Even though we are not satisfied entirely



with the explanation given for the delay of 3 years 259 days, yet in order to do substantial justice, we condone the delay and allow the application treating the appeal to be within time.

Re.: L.P.A. No. 180 of 2018

This appeal questions the correctness of the impugned judgment of the learned Single Judge declining to grant any relief to the appellant who was contesting the orders passed by the District Teachers Employment Appellate Authority. The learned Single Judge while dealing with the case of the appellant separately arising out of C.W.J.C. No. 4134 of 2014 has recorded a finding that the appellant was rusticated on account of using unfair means during the Teachers Eligibility Test and a substantive criminal case was instituted against him whereafter he was arrested and remained in detention for the offences under Section 420, 467 and 468 of the Indian Penal Code read with Section 10 of the Bihar Examination Act.

The appellant being an accused in a criminal case cannot as a matter of right claim the issuance of writ which is a matter of discretion under the exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. He, therefore, cannot claim a right of appointment in the said background nor a writ can issue unless substantial injustice is



pointed out to have occurred or serious prejudice having been caused to the appellant. None of the ingredients are available and to the contrary, the appellant was found having indulging in unfair means and that too even during the Teacher Eligibility Test itself. This, therefore, was a clear case where the learned Single Judge has rightly refused to exercise discretion.

No case is made out for interference. Dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

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