

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1021 of 2017

In

C. REV. 441 of 2014

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Kumari Nutan Sinha D/o.- Shri Harishankar Verma, resident of Village+
P.O.- Dalsinghsarai, P.S. Dalsinghsarai, District- Samastipur.

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department,
Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The District Magistrate, Samastipur.
5. The Deputy Development Commissioner-cum- Chairman, District
Education Establishment Committee, Samastipur.
6. The District Education Officer, Samastipur.
7. The District Programme Officer (Establishment), Samastipur.
8. The Block Development Officer, Bithan, District- Samastipur.
9. The Block Education Officer, Bithan, District- Samastipur.
10. The Mukhiya, Gram Panchayat Raj Marthua, Block- Bithan, District-
Samastipur.
11. The Panchayat Secretary, Gram Panchayat Raj Marthua, Block- Bithan,
Samastipur.
12. The Headmaster, Government Primary School, Marthua, Anchal-
Bithan, District- Samastipur.
13. The Member, District Teacher's Employment Appellate Authority,
Samastipur.
14. Pinki Kumari, D/o.- Shri Sarandhar Rai, resident of Village- Smartha,
P.S.- Bibhutipur, District- Samastipur at present posted and working as
Panchayat Teacher in Govt. Primary Kuwa, Anchal- Bithan, District-
Samastipur.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Suraj Narayan Yadav, Adv.

Mr. Ranjit Kumar Yadav

For the Respondent/s : Mr. Priyadarshi Matri Sharan, AC to AAG 15

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

6 29-08-2018

Re: I.A. No. 6876 of 2017

Heard Mr. Suraj Narayan Yadav, learned Counsel for
the appellant and Mr. Priyadarshi Matri Sharan, learned AC to



AAG 15 for the State on the interlocutory application bearing I.A. No. 6876/2017 which is filed for condonation of delay of 312 days.

The intra-Court appeal is filed to question the judgment and order of the learned Single Judge passed in CWJC No. 17077/2011 dated 20.08.2013.

We have heard Mr. Yadav on the condonation application. He seeks to rely upon the statement made in the interlocutory application which does not in any manner justify the delay of 312 days. On the contrary, the pleadings on record would confirm that the writ petition was dismissed on 20.08.2013. Feeling aggrieved, the appellant-writ petitioner moved in intra-Court appeal giving rise to L.P.A. No. 20/2014 but after some argument, learned counsel for the appellant chose to withdraw the appeal on 14.07.2014. While withdrawing the appeal, the appellant took liberty to approach the Court in future with an appropriate application but instead chose to move the learned Single Judge in Review Jurisdiction giving rise to Civil Review No. 441/2014 which has also been dismissed on 10.08.2016.

In our opinion, in view of the earlier withdrawal by the appellant-petitioner of L.P.A. No. 20/2014, the filing of the present appeal simply because review application has been dismissed, would give no cause of action for the appellant-



petitioner to maintain the present appeal. We have also examined the judgment and order of the learned Single Judge and which itself explains the reason why the appellant-writ petitioner chose to withdraw the earlier Letters Patent Appeal because while the first counseling had been cancelled by the selection Committee, in the second counseling the private respondent no.14 secured higher marks and according to Mr. Yadav there was a 3rd counseling but he admits that the 3rd counseling reiterated the same position as the second counseling, giving the private respondent a march over the appellant-petitioner because the appellant-petitioner never chose to participate.

In the circumstances discussed, the writ petition was rightly dismissed by the learned Single Judge and even the Co-ordinate Bench refused to grant indulgence which led to withdrawal of the previous appeal. Neither thus on explanation of delay nor on maintainability nor on merits, is the appeal worth consideration. As a consequence, the limitation petition is rejected and the Letters Patent Appeal is dismissed.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Archana/Surendra

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