

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 1067 of 2018

In

Civil Writ Jurisdiction Case No. 15425 of 2014

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Sabita Kumari, Wife of Ramchandra Das, resident of Village- Khaira Firoj,
Police Station- Kasma, Block- Rafiganj, District- Aurangabad.

... .. Appellant

Versus

1. The State of Bihar, through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director (ICDS) of Social Welfare Department, Government of Bihar, Patna.
3. The Deputy Director Welfare, Magadh Pramandal, Gaya.
4. The Assistant Director (ICDS) of Social Welfare Department, Government of Bihar, Patna.
5. The District Magistrate, Aurangabad.
6. The District Programme Officer, Aurangabad.
7. The Child Development Project Officer, Rafiganj Block, Aurangabad, Bihar.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Manoj Kumar
For the Respondent/s : Mr. Gyan Prakash Ojha GA-7

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAKESH KUMAR)

5. 15-07-2019 Heard Sri Manoj Kumar, learned counsel for the
appellant and Sri Gyan Prakash Ojha, learned Govt. Advocate –
7 on limitation petition as well as on memo of appeal.

I.A. No. 7466 of 2018

The limitation petition i.e. I.A. No. 7466 of 2018 has
been filed under Section 5 of the Limitation Act for condoning
delay of 04 (four) days in filing the appeal. The appellant has



explained the delay appropriately in the limitation petition. We have examined the same and we are satisfied with the ground set-forth in the limitation petition for condoning the delay.

Accordingly, the interlocutory application i.e. I.A. No. 7466 of 2018 is allowed and delay in filing appeal stands condoned.

L.P.A. No. 1067 of 2018

With the consent of both the parties, we have heard the appeal on merit.

Sri Manoj Kumar, learned counsel for the appellant submits that the appellant was removed, as Anganbari Sevika, mainly on the charge that she remained absent for ten days and on inspection of one day, she was found absent. He further submits that after inspection, a report was submitted by C.D.P.O., Rafiganj (Aurangabad) showing that in the Anganbari Centre, there were several irregularities and she was also found absent. Sri Manoj Kumar, learned counsel for the appellant submits that the appellant remained absent with the permission of the authority concerned and regarding fact that there were irregularities in the centre, there was no such charge and as such, he submits that the Appellate Authority as well as Hon'ble Single Judge has erroneously rejected the claim of the appellant.



Learned counsel for the appellant further submits that despite the fact that there was nothing on record to show that any irregularity was earlier found, the Hon'ble Single Judge has noticed the fact, which according to learned counsel for the appellant, is error of record. He further submits that in the writ petition, he had also brought on record medical certificates, which went unnoticed.

Sri Ojha, learned Govt. Advocate – 7 has opposed the prayer. He submits that ofcourse, a plea was taken before the Lower Appellate Authority that the appellant remained absent for ten days on the permission granted by the authority concerned, however; neither before the Lower Appellate Authority any document has been brought on record nor any chit of paper in this regard has been brought to the notice of Hon'ble Single Judge at the time of hearing of the writ petition. He submits that the judgment, passed by the Hon'ble Single Judge on 26-06-2018 in C.W.J.C. No. 15425 of 2014, categorically makes it clear that no order supposed to be granted by the superior authority for leave was brought on record.

Besides hearing, we have also perused the material on record as well as the judgment passed by the Single Judge. On examination of the judgment of the Single Judge, it is evident



that neither before the Lower Appellate Authority any document/order was brought on record showing grant of leave nor same was brought on record before the Single Judge. Accordingly, we do not find any error warranting interference.

The appeal stands dismissed.

(Rakesh Kumar, J.)

(Anjani Kumar Sharan, J.)

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