

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.135 of 2024
In
Civil Writ Jurisdiction Case No.17152 of 2022

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1. Saloni Kumari @ Saloni Devi Daughter of Baliram Singh Resident of Vilalge-Bagauchha, P.O. Pipra, P.S. Maharajganj, Disrict-Siwan.
 2. Sandhya Kumari Daughter of Ajeet Pandit Resident of Village-Jafrabad, P.O. and P.S. Desari, District- Vaishali
 3. Geeta Kumari Daughter of Kashinath Singh Resident of Village-Jalalpur, P.S. G.B. Nagar Tarwara, District-Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Chief Executive Director, State Health Society, Bihar, Patna.
3. The Principal Secretary, Health Department, Bihar, Patna.
4. The Executive Director, State Health Society, Bihar Patna.
5. The Deputy Secretary- Cum-Incharge, Human Resources Department, Bihar, Patna.
6. Reena Kumari Daughter of Shyamnath Pandit Resident of Village-Jafrabad, P.O. Desari, District-Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajeev Prakash, Advocate
For the Respondent/s : AAG 9

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

- 3 16-07-2024 1. Heard learned counsel for the appellant and learned counsel for the respondents.
2. The instant appeal has been preferred against the judgment dated 9.10.2023 passed in CWJC no.17152 of 2022 whereby the learned Single Judge was pleased to dismiss the writ application filed by the appellant.



Re: I.A. no.1 of 2024

3. This interlocutory application has been filed by the appellants praying for condonation of delay of 92 days in filing of the instant appeal.

4. Learned counsel for the appellants submits that the last date for filing of the appeal against the order dated 9.10.2023 of the learned Single Judge expired on 8.11.2023, however, the appeal could be filed only after a delay of 92 days on 8.2.2024 for reasons beyond the control of the appellant as explained in the interlocutory application.

5. Having heard leaned counsel for the parties and having perused the contents of the application, the delay in filing of the appeal is condoned.

6. I.A. no.1 of 2024 stands allowed.

Re: LPA no.135 of 2024.

7. In the instant appeal preferred against the judgment dated 9.10.2023 dismissing CWJC no.17152 of 2022, the case of the appellants is that the three of them were applicants against Advertisement no. 5 of 2021 taken out for selection of Auxiliary Nurse Midwifery ('ANM' in short). The appellant nos.1, 2 and 3 applied in their respective categories of being the grand daughter of an ex-Freedom Fighter, belonging



to the Most Backward Class (MBC in short) and belonging to the category of Economically Weaker Section (EWS in short). It is not in dispute that the appellant no.1 got 32.6 marks against the cut-off of 34.32 marks for Ex-Freedom Fighters, the appellant no.2 obtained 39.68 marks against the cut-off of 44.19 for the MBC category and the appellant no.3 obtained 32.4 marks against the cut-off of 38.5 marks for the EWS category. Thus none of the appellants secured marks over the cut-off marks of their respective categories and thus were not selected.

8. It was contended by learned counsel for the appellants that even after completion of the process of selection sufficient vacancies still remain and the Court may direct for appointments of the appellants.

9. The learned Single Judge taking into consideration the contention of learned counsel for the appellants as also the material on record held that the vacancies existing were against the respective reserved categories and there was no provision in the rules or the advertisement under which the selection was made for preparation of waiting list for filling up of the vacancies which still remain vacant due to the non-joining or otherwise.

10. Thus the learned Single Judge in view of these



facts and the appellants not having obtained the minimum cut-off marks in their respective categories rightly dismissed the writ application filed by the appellants. The Court finds no error in the order of the learned Single Judge.

11. The appeal is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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