

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.370 of 2022

In
Civil Writ Jurisdiction Case No.1746 of 2021

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Baidyanath Mukhiya Son of Lachho Mukhiya, Resident of Village- Kharrakh Sarso, P.S.- Pandoul, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary of Education Department, Bihar, Patna.
2. The Vice Chancellor, Lalit Narayan Mitihila University, Darbhanga.
3. The Registrar, Lalit Narayan Mithila University Darbhanga.
4. The Principal M.R.M. College, Lalbagh Darbhanga.
5. Sumirta Devi Wife of Girendra Mohan Prasad Mahtha, at present posted as IVth grade Employee in M.R.M. College Lalbagh P.S.- Darbhanga Town, District- Darbhanga.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Sanjeev Kumar Jha, Advocate
For the University	:	Mr. Binita Singh, Advocate
For the Respondent/s	:	Smt. Shilpa Singh, GA-12

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 23-01-2024

The present appeal is directed against the order dated 20.6.2022 passed by the learned Single Judge in C.W.J.C. No. 1746 of 2021 by which the writ petition was dismissed.

2. In the writ petition, the appellant-petitioner wanted annulment of the appointment of the respondent no.5, Sumitra Devi who was serving as 4th grade employee in the M.R.M. College, Lalbagh, Darbhanga on the ground that three



dates of entry into service can be found mentioned in her service book as 01.02.1976, 17.02.1976 and 01.04.1977. It has been averred that the salary fixation has been made taking into account the date as 01.04.1977. According to the appellant-petitioner, it was brought to the notice of the respondent no.4, the Principal of the College on 25.4.2020 whereafter, the writ petition was filed.

3. The matter was taken up by the learned Single Judge and vide an order dated 20.6.2022, the writ petition was dismissed. The relevant part of the order read as follows:

"The petitioner prays for directions to be issued to the respondents to conduct enquiry on the basis of a representation made by one Baidyananth 'Mukhiya' relating to appointment of one Smt. Sumitra Devi. The representation was made on 25th April, 2020.

The writ petition does not disclose as to what further process was conducted on the said representation and the petitioner simply prays for directing



the authorities to set aside the illegal appointment of respondent no.5. Question regarding legality ad illegality of appointment of respondent no.5 alleged to have been made on the basis of impersonation is a matter required to be examined on facts. The writ petition for such purpose would not lie. The remedy lies elsewhere.

The writ petition is accordingly dismissed.

4. Learned counsel for the appellant-petitioner submits that in view of three dates of entry, a doubt is naturally created on the appointment of the respondent no.5, Sumitra Devi and only after a proper inquiry, the truth about her appointment will come out. He, however is unable to respond to the query why almost 50 years was taken to challenge the appointment of the lady-respondent no.5, a 4th grade employee and the ulterior motive behind it cannot be ignored. In any case, the writ Court rightly observed that remedy of the appellant-petitioner lies elsewhere and not in a



writ petition.

5. The appeal is misconceived, we do not find any error in the order dated 20.6.2022 passed by the learned Single Judge in C.W.J.C. No. 1746 of 2021 and the same is accordingly dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Ravi/-

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CAV DATE	
Uploading Date	29.01.2024
Transmission Date	

