

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1093 of 2019

In
Civil Writ Jurisdiction Case No.13106 of 2014

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Indu Sinha, W/o Sri Shailendra Prasad, Resident of Village - Chhato, P.O.-
Tetrawan, P.S. - Manpur, District - Nalanda.

... .. Appellant.

Versus

1. The State of Bihar.
2. The Principal Secretary, Welfare Department, Govt. of Bihar, Patna.
3. The Director, I.C.D.S., Government of Bihar, Patna.
4. The Deputy Director, Welfare, Patna Division, Patna.
5. The District Magistrate, Nalanda.
6. The District Programme Officer, Nalanda at Biharsharif.
7. The Child Development Project Officer, Biharsharif, Rural, Nalanda.
8. Dina Singh, S/o Late Sri Ram Singh, Resident of Village- Chhato, P.O.-
Tetrawan, P.S.- Manpur, Distt.- Nalanda.

... .. Respondents.

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Appearance :

For the Appellant	:	Mr. Shashank Chandra, Advocate. Mr. Ashutosh Kumar, Advocate.
For the State	:	Mr. Gyan Prakash Ojha (GA-7).

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-08-2024

I.A. No.1 of 2019:

Heard I.A. No.1 of 2019 for condonation of delay of
about 28 days in filing the present L.P.A. No.1093 of 2019.

2. For the reasons stated in the application (I.A. No.1
of 2019) read with affidavit, delay of about 28 days in filing the
present L.P.A. No.1093 of 2019 stands condoned.



3. I.A. No.1 of 2019 stands allowed.

L.P.A. No.1093 of 2019:

4. With the consent of the learned counsel for the respective parties, the present L.P.A. No.1093 of 2019 is taken up for final disposal.

5. Appellant Indu Sinha was a candidate for recruitment to the post of Anganwari Sevika for Centre No.160 at village-Chhato in Gram Panchayat-Pawa of the District. She was appointed on 01.08.2012. On certain alleged allegation that appellant's husband was working as a Clerk in the Government aided Institution, resultantly, she was not entitled to participate in the process of selection and appointment to the post of Anganwari Sevika in view of one of the condition that candidate should not be related to any Government Servant/ related to Government Service. Cancellation order dated 21.11.2013 was the subject matter of appeal before the appellate authority. The appellate authority rejected the appellant's appeal on 10.05.2014. Resultantly, C.W.J.C. No.13106 of 2014 was filed.

6. The learned Single Judge proceeded to dismiss the aforesaid writ petition (C.W.J.C. No.13106 of 2014) on the ground that appellant has been awarded bonus marks which was not deserved by the appellant having regard to the qualification



possessed by her. The other ground was that her husband was employed in a Government aided College.

7. The aforementioned reasoning may not be correct in view of the fact that the official respondent cannot impose condition that applicant to the post of Anganwari Sevika and his/her relatives are in Government Service in that event they are ineligible would be contrary to the Articles 14 and 16 of the Constitution of India. The same has been taken note of by the Hon'ble Supreme Court in the case of **Anjum Ara Versus The State of Bihar and others {Civil Appeal No.208 of 2024 (Arising out of SLP (C) No.2233 of 2023)}**.

8. Even on merits, he could have got verified from the official respondent to the extent even without bonus marks, was she entitled to be appointed to the post of Anganwari Sevika or not?

9. Be that as it may, appellant has failed to implead incumbent Lalita Kumari who was appointed on 07.02.2014. She has not been arrayed as necessary and proper party to C.W.J.C. No.13106 of 2014. In the absence of she being necessary and proper party, writ petition as well as L.P.A. is not maintainable in the light of the decision of the Hon'ble Supreme Court in the case of **Ranjan Kumar and others Versus State**



of Bihar and others, reported in (2014) 16 SCC 187.

10. Accordingly, the present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

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