

IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 401 of 2016

With

I.A. No.452 of 2017

Karmela Hansda, wife of Shri Brahmdeo Roy, resident of Village –
Chhoti Bhagiyamari, PO- Sakrigali, PS- Taljhari, District – Sahibganj

... .. Appellant

Versus

1. The State of Jharkhand
 2. The Deputy Commissioner, Sahibganj
 3. The District Programme Officer, Sahibganj
 4. The Child Development Project Officer, Taljhari, Sahibganj
 5. The Block Development Officer, Taljhari, Sahibganj
- Respondents

CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE RATNAKER BHENGRA

For the Appellant: M/s. Din Dayal Saha, Jitendra Sharma

For the Respondents: M/s. J.C. to GP-VI

06/Dated: 31st October, 2017

Per D.N. Patel, A.C.J.

I.A. No.452 of 2017

1) This interlocutory application under Section 5 of the Limitation Act has been filed by the appellant for condonation of delay of 03 days in preferring the instant Letters Patent Appeal.

2) Having heard learned counsel and looking to the reasons stated in paragraphs 4 and 5 of the interlocutory application, there are reasonable reasons for condoning the delay in preferring the instant Letters Patent Appeal.

3) Accordingly, I.A. No.452 of 2017 is allowed and delay in filing the instant appeal is condoned.

L.P.A. No.401 of 2016

4) This Letters Patent Appeal has been preferred by the original petitioner, being aggrieved and feeling dissatisfied, by the judgment and order delivered by learned Single Judge in W.P.(S) No.5282 of 2015 dated 20th July, 2016.

5) Having heard learned counsels for both sides and looking to the facts and circumstances of the case, it appears that this appellant is the original petitioner who was appointed as Anganwari Sevika at Village Bhagiyamari (Sakrigali), District – Sahibganj. Her services were

terminated and, therefore, earlier a writ petition was preferred by this appellant being W.P.(S) No.3502 of 2010 and the termination order was quashed and set aside, with an observation that the order has to be passed by the Child Development Project Officer and the matter was remanded to the competent authority.

6) It appears that the State Government has committed the very same error and the appellate authority has passed the order of termination and the second time writ petition has to be preferred by this appellant being W.P.(S) No.5282 of 2015. This aspect of the matter has not been properly appreciated by the learned Single Judge. Once the appellate authority is passing the order of termination and again before the very same authority, appeal is coming, nothing will be left out for him to be decided.

7) As per clause 16 of the Government Instructions dated 2nd June, 2006, the competent authority is the Child Development Project Officer and, therefore, he has to pass an order, while, in the facts of the present case, the termination order has been passed by the appellate authority, namely, Deputy Commissioner, Sahibganj. The said order is dated 11th August, 2015, which is annexed as Annexure 7 to the memo of this Letters Patent Appeal. Hence, we, hereby, quash and set aside the said order passed by the learned Deputy Commissioner, Sahibganj, which is annexed as Annexure 7 to the memo of this Letters Patent Appeal and we also quash and set aside judgment and order delivered by learned Single Judge in W.P.(S) No.5282 of 2015 dated 20th July, 2016. The matter is again remanded to the Child Development Project Officer, who will decide the case of this appellant in accordance with law, rules, regulations and Governmental policy.

8) With the aforesaid directions, this Letters Patent Appeal is allowed and disposed of.

(D. N. Patel, ACJ)

(Ratnaker Bhengra, J)