

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.106 of 2024**

**In**

**Civil Writ Jurisdiction Case No.4933 of 2019**

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Punam Kumari, Daughter of Ram Nath Rai, Resident of Village-  
Rajmahaldih, P.S.- Sikrahta, District- Bhojpur at Ara.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar,  
Patna.
3. The Director, Education Department, Government of Bihar, Patna.
4. The District Magistrate, Bhojpur at Ara.
5. The District Education Officer, Bhojpura, Ara.
6. The District Programme Officer (Est.), Bhojpur at Ara.
7. The Block Development Officer, Shahpur, District- Bhojpur at Ara.
8. The Block Education Extension Officer, Shahpur, Ara.
9. The Panchayat Secretary, Gram Panchayat Raj, Dumariya, Shahpur, District-  
Bhojpur at Ara.
10. The Mukhiya, Gram Panchayat Raj Dumariya, Shahpur, District- Bhojpura  
at Ara.
11. Sunita Kumari, Daughter of Bhuneshwar Dubey, Resident of Village-  
Dudhghat, P.S.- Shahpur, District- Bhojpur, Ara.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Yogesh Chandra Verma, Sr. Adv.  
Mr. G.N. Ojha, Advocate  
Mr. Bijay Shankar Choubey, Adv.

For the State : Mr. Tej Prtap Singh, AC to AAG-13

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**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI**  
**and**  
**HONOURABLE MR. JUSTICE RANA VIKRAM SINGH**  
**C.A.V. JUDGMENT**  
**(Per: HONOURABLE MR. JUSTICE RANA VIKRAM SINGH)**  
**Date : 08-10-2026**

The present Letters Patent Appeal has been preferred by the appellant, namely, Punam Kumari, against the judgment and order dated 12.01.2024 passed by the learned Single Judge in C.W.J.C. No. 4933 of 2019, whereby the writ petition preferred by respondent No. 11 herein (the petitioner in the writ petition) was allowed to the extent indicated in the said judgment and order and the orders dated 13.06.2018 and 10.12.2018 passed by the District Appellate Authority, Bhojpur, Ara and the State Appellate Authority, Bihar, Patna, respectively, were set aside. Consequently, the appointment of the present appellant (respondent No. 11 in the writ petition) to the post of Panchayat Teacher in Gram Panchayat Raj Dumariya, Shahpur Block, District-Bhojpur was also set aside.

2. The *memorandum* of appeal reveals that the writ petitioner (respondent No. 11 herein) had challenged the order dated 10.12.2018 passed in Case No. Appeal/530/2018 by the State Appellate Authority, Bihar, Patna as well as the earlier order dated 13.06.2018 passed in Appeal (Case) No. 37 of 2017



by the District Appellate Authority, Bhojpur, Ara, by preferring C.W.J.C. No. 4933 of 2019.

3. Mr. Yogesh Chandra Verma, learned Senior Counsel appearing on behalf of the appellant, has assailed the judgment and order under appeal, primarily on the ground that the learned Single Judge failed to properly appreciate the facts and circumstances surrounding the selection and appointment of the appellant.

4. It has been contended on behalf of the appellant that she had been selected through a duly conducted selection process and had been appointed pursuant to the merit list prepared by the competent authority. It is further contended that the learned Single Judge ought not to have interfered with the appointment after a considerable lapse of time, particularly when the appellant had continued in service for several years.

5. It has also been urged that the learned Single Judge failed to appreciate the alleged infirmities in the case of the writ petitioner and that the claim of the writ petitioner for appointment in place of the appellant could not have been accepted merely on the basis of allegations regarding the authenticity of the marks-sheet.

6. The *memorandum* of Appeal further raises



grounds questioning the appreciation of the evidence by the learned Single Judge and alleges, *inter alia*, that the finding regarding the forged document was not sustainable in the eyes of law and that the selection process was being questioned after a considerable lapse of time.

7. Mr. Tej Pratap Singh, learned AC to AAG-13 appearing on behalf of the State, on the other hand, has opposed the appeal and supported the judgment and order under appeal.

8. It has been submitted on behalf of the State that the appointment of the appellant was founded upon the marks secured by her in the Intermediate Examination and that the materials available on record demonstrated a substantial discrepancy between the marks reflected in the document relied upon for securing the appointment and the marks actually obtained by the appellant.

9. It has further been submitted that the appellant's own stand before the District Appellate Authority was that she had obtained 384 marks out of 900 marks and, therefore, the very foundation upon which she had secured a higher position in the merit list, stood seriously undermined.

10. The State has also relied upon the fact that the learned Single Judge did not mechanically direct the



appointment of the writ petitioner; rather, after setting aside the appointment of the appellant, the learned Single Judge specifically noticed that the writ petitioner had not acquired the requisite teachers' training and, therefore, no positive direction for her appointment could be issued. The counter affidavit filed on behalf of respondent Nos. 5 and 6 also places reliance upon this aspect of the matter.

11. We have considered the submissions advanced on behalf of the respective parties and have carefully gone through the judgment and order under appeal as well as the materials available on record and placed before this Court.

12. The principal question which arises for consideration in the present appeal is whether the learned Single Judge was justified in interfering with the appointment of the appellant upon finding that the appointment had been obtained on the basis of a forged and fabricated marks-sheet.

13. The controversy has its genesis in the selection and appointment to the post of Panchayat Teacher in Gram Panchayat Raj Dumariya, under Shahpur Block, District Bhojpur, against the unreserved category of physically handicapped women candidates, during the second phase of teachers' employment. For the said purpose, a merit list was



prepared and published on 06.01.2009, wherein the appellant (respondent No. 11 in the writ petition) was placed amongst the selected candidates on the basis of the marks attributed to her in the Intermediate examination. The appellant was thereafter issued an appointment letter dated 14.08.2010 *vide* Memo No. 26 and was appointed as Panchayat Teacher.

14. Subsequently, respondent No. 11, the writ petitioner before the learned Single Judge, obtained the appellant's marks sheet from the Bihar Intermediate Education Council and alleged that she had, in fact, obtained only 384 marks out of 900 marks, *i.e.*, 42.66% and not the marks on the basis of which she had secured her position in the merit list. The writ petitioner, consequently, alleged that the appellant had secured appointment on the strength of a forged and fabricated marks sheet. The said factual assertion as well as the subsequent proceedings arising therefrom, are also substantially reflected in the *memorandum* of Appeal and the documents annexed thereto.

15. The writ petitioner had earlier approached this Court by filing C.W.J.C. No. 23049 of 2012, which was disposed of on 04.09.2017, with liberty to her to approach the District Appellate Authority within thirty days. Pursuant thereto, Appeal Case No. 37 of 2017 was preferred before the District



Appellate Authority, Bhojpur at Ara. The appellant appeared in the said appellate proceeding and filed her reply. Significantly, as borne out from the record considered by the learned Single Judge, the appellant herself stated before the District Appellate Authority that she had secured 384 marks out of 900 marks in the Intermediate of Arts Examination, 1994. The District Appellate Authority, however, dismissed the appeal principally on the ground of inordinate delay in challenging the said appointment. The State Appellate Authority also dismissed the appeal preferred against the said order and thereby, upholding the decision of the District Appellate Authority.

16. The writ petition was, thereafter, considered by the learned Single Judge, who found that the issue of delay could not defeat the challenge when the writ petitioner had already approached this Court in the year 2012 itself and had, thereafter, pursued her remedy before the competent Appellate Authority pursuant to the order passed by this Court. The learned Single Judge further found that the appellant had secured appointment on the basis of a forged and fabricated mark-sheet and, consequently, held that the appointment was *void ab initio*.

17. The foundation of the appellant's appointment



was her position in the merit list. Her merit position, in turn, depended upon the marks attributed to her in the Intermediate examination. The records, as noticed by the learned Single Judge, disclosed that the appellant had been shown to have obtained 72.77% marks, whereas the material obtained from the Bihar Intermediate Education Council indicated that she had actually obtained 384 marks out of 900 marks, equivalent to 42.66%. More importantly, this was not merely a case where the writ petitioner had made an allegation which remained unsupported.

18. The learned Single Judge noticed that the appellant herself had admitted before the District Appellate Authority that she had obtained 384 marks out of 900 marks. Thus, the basic factual foundation relied upon by the learned Single Judge cannot be said to be based merely upon an unsubstantiated allegation made by the writ petitioner.

19. Once the marks actually obtained by the appellant were found to be substantially lower than those on the basis of which she had secured her position in the merit list, the very basis of her selection and appointment dissipates rendering her appointment unsustainable in the eyes of law.

20. The learned Single Judge recorded a



categorical finding that the appellant had secured appointment on the basis of a forged and fabricated marks sheet and that such appointment was consequently *void ab initio*.

21. “*Fraus omnia corrumpit*” is the *Latin maxim*, which embodies the principle that “*fraud vitiates everything*”. Under this foundational legal principle, anything acquired or obtained through fraud is not only completely void but it is void since inception and nothing can legalize it nor can give it colour of legitimacy.

22. When appointment was procured by a person on the basis of forged documents, it would amount to misrepresentation and fraud on the employer and, therefore, it would create no equity in his favour or any estoppel against the employer while resorting to termination without holding any inquiry.

[refer to ***Jainendra Singh Vs. State of Uttar Pradesh though Principal Secretary, Home and Ors. : (2012) 8 SCC 748***].

23. The above legal principle has further been strengthen by the Hon’ble Supreme Court in the case of ***Vijay Kishanrao Kurundkar & Anr. Vs. State of Maharashtra & Ors. : 2020 SCC OnLine SC 834***, wherein it has been held that “*it is trite law that an appointment secured on the basis of a*



*fraudulent certificate is void ab initio. It is not open to the government to circumvent the existing statutory mandate by indefinitely protecting the deceitful activities of such candidates through the use of circulars or resolutions”.*

24. The aforesaid legal principles find their foundational fulcrum in the judgment rendered by the Hon’ble Supreme Court in the case of ***Chairman and Managing Director, Food Corporation of India Vs. Jagdish Balram Bahira : (2017) 8 SCC 670.***

25. An appointment obtained by placing reliance upon a document which does not represent the candidate’s actual academic qualification cannot be protected merely on the ground that the appointment was made several years ago. An appointment founded upon fraud or misrepresentation cannot acquire legitimacy merely by the passage of time.

26. The principle that “*fraud vitiates the entire proceeding*” squarely applies to the facts of the present case, where the very document, which formed the basis of the selection, has been found to be fabricated or materially false.

27. The learned Single Judge, upon consideration of the materials available on record, specifically recorded a finding that the appellant had secured appointment on the basis



of a forged and fabricated document and that such fraud went to the root of the appointment.

28. In our considered opinion, the answer to issue formulated in Paragraph 12 has to be in the affirmative.

29. The contention regarding delay also does not persuade us.

30. The learned Single Judge has rightly noticed that the writ petitioner did not remain inactive after the appellant's appointment. The record shows that the writ petitioner had approached this Court by filing C.W.J.C. No. 23049 of 2012 and pursuant to the order dated 04.09.2017, she had approached the District Appellate Authority within the time granted by this Court.

31. Thereafter, the writ petitioner challenged the order of the District Appellate Authority before the State Appellate Authority and after the order dated 10.12.2018, she approached this Court by filing the writ petition, which culminated in the judgment under appeal.

32. Thus, the present case cannot be treated as one where a person had slept over her rights and, after an unexplained and prolonged delay, sought to disturb a concluded



appointment. The procedural history noticed by the learned Single Judge demonstrates that the writ petitioner had been diligently pursuing the matter before the competent forums.

33. The mere length of service, therefore, cannot validate an appointment where its very foundation has been found to be fraudulent.

34. There is another significant aspect of the matter, which deserves to be noticed.

35. The learned Single Judge did not direct the appointment of the writ petitioner merely on the ground that the appointment of the appellant was found to be illegal. On the contrary, after setting aside the appointment of the appellant, the learned Single Judge considered whether any positive direction could be issued in favour of the writ petitioner.

36. The Court noticed that the writ petitioner had not acquired the requisite teachers' training during the pendency of the proceedings and in view of the Notification dated 09.08.2017 issued under Section 23(2) of the Right of Children to Free and Compulsory Education Act, 2009 as well as the consequential instructions issued thereunder, declined to direct her appointment against the post vacated by the appellant.



37. Therefore, the submission that the learned Single Judge mechanically substituted the writ petitioner in place of the appellant is not borne out by the judgment and order under appeal.

38. The jurisdiction of this Court in a Letters Patent Appeal is, undoubtedly, wide; nevertheless, interference is warranted only where the judgment and order under appeal suffers from an error of law, perversity, or material misappreciation of the records.

39. In the case at hand, the learned Single Judge has considered the relevant documents, the proceedings before the District Appellate Authority and the State Appellate Authority, the explanation furnished by the appellant and the marks admittedly obtained by her. The conclusion that the appellant's appointment could not be sustained, once the foundation of her selection was found to be based upon a forged and fabricated marks-sheet, is firmly supported by the materials available on record.

40. The counter-affidavit filed on behalf of respondent Nos. 5 and 6 also substantially supports the factual position recorded in the judgment and order under appeal and does not disclose any material circumstance warranting a



different view.

41. We are, therefore, unable to accept the submission that the judgment and order under appeal suffers from any infirmity warranting interference by this Court in the exercise of its *intra-Court* appellate jurisdiction.

42. *Ex consequenti*, the present appeal, being devoid of merit, is hereby dismissed.

43. There shall be no order as to costs.

44. The interlocutory application(s), if any, also stands disposed off accordingly.

**(Rana Vikram Singh, J)**

**Bibek Chaudhuri, J : I agree**

**(Bibek Chaudhuri, J)**

Praveen-II/-

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