

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1646 of 2014

In

Miscellaneous Jurisdiction Case No. 1846 of 2012

In

Civil Writ Jurisdiction Case No. 2703 of 2008

With

Interlocutory Application No. 9333 of 2014

In

Letters Patent Appeal No.1646 of 2014



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Dr.M L Chaudhry, son of Late Deep Narain Choudhary, the Vice
Chancellor, Bihar Agricultural University, Sabour, Bhagalpur

..... Opposite Party no.3/ Appellant

Versus

1. Ram Binay Mishra, S/o Uchita Nand Mishra, resident of village Doghar,
PS Bihta, District Patna
2. Keshar Prasad Singh, S/o late Gurucharan Singh, resident of village
Dhelwa, Lohiya Nagar, PS Kankarbag, District Patna
3. Umesh Kumar, S/o Sri Rajandhari Shara, resident of Qr. No. C2,
residential campus Mithapur Farm, PS Kankarbagh, District Patna
4. Hiralal Singh, S/o Sri Ramlayat Singh, resident of Sardar Quarter,
Botanical Research, Dhangai, PS Bikramganj, District Bikramganj
5. Kunal Sinha, S/o Late Ramendra Kumar Sinha, resident of Kesar Kunj,
Eastern Lohanipur, Prithvi Raj Path, PS Kadamkuan, District Patna
6. Ashok Pandey, S/o Late Dudheshwar Pandey, resident of Mohalla
Prabattinagar, Sipara, PS Beur, District Patna
7. Mohan Kumar, S/o Late Rajendra Prasad Yadav, resident of Mohalla
New Bigrampur, PS Jakkanpur, District Patna
8. Pankaj Kumar, S/o Late Sahajanand Singh, resident of village Rampur,
Thuthi, PS Purbatta, District Khagaria
9. Ram Bilash Mandal, S/o late Sita Ram Mahto, resident of Qr. No. C/3,
residential campus, Mithapur Farm, PS Kankarbagh, District Patna
10. Mukesh Kumar, S/o Late Bal Karan Sah, resident of Mohalla Isarpur
Sipara, PS Beur, District Patna
11. Dayal Sharan Chaudhary, S/o late Labi Choudhary, resident of mohalla
Purandarpur, PS Jakkanpur, District Patna

.. Petitioners/Respondents

12. The State of Bihar, through Agriculture Production Commissioner,
Agriculture Department, Government of Bihar through Smt. Dipika
Padda

13. Dr. B P Singh, the Vice Chancellor, Rajendra Agriculture University,
Bihar, Pusa, Samastipur

14. Dr. S K Sharma, the Regional Director, Agricultural Research Institute,
Lohiyanagar, Patna

.... Opposite Party nos. 1, 2 and 4/ Proforma Respondents

Appearance :

For the Appellant/s : Mr. Anil Kumar Upadhyay
Mr. Chandra Mohan Singh

For the Respondent State : Mr. Rajiv Roy, GP 5

For Respondent No. 13 : Mr. Prakash Mahto

For Respondent No. 14 : Mr. Samir Kumar Sinha

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE I. A. ANSARI

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 06-01-2015

I A No. 9333 of 2014

This application under Section 5 of the Limitation Act has been filed with a prayer to condone the delay of 40 days in preferring the Letters Patent Appeal against the order dated 8.9.2014 passed by the learned Single Judge in MJC No. 1846 of 2012. In the petition, it is stated that soon after the copy of the order was received, the matter was discussed at length and delay has taken place in taking administrative decision to prefer the appeal.

None appears for the contesting respondents.

We are satisfied with the reasons mentioned in the petition. The delay is accordingly condoned.

I A No. 9333 of 2014 stands disposed of.

Letters Patent Appeal No. 1646 of 2014

The respondent nos. 1 to 11 filed CWJC No. 2703 of 2007 in relation to the promotion to various posts in the Rajendra Agricultural University, Bihar, which has since been bifurcated. The learned Single Judge passed the order dated 28.6.2011 with a direction that it shall be open to the writ petitioners, i.e. respondents 1 to 11 herein, to submit a representation and the Vice-Chancellor, in turn, shall consider the same and pass an appropriate order. The respondents alleged that the Vice-Chancellor, i.e. the appellant herein, did not comply with the order passed by the learned Single Judge.

The respondents filed MJC No. 1846 of 2012, alleging non-compliance of the order of the learned Single Judge dated 28.6.2011 passed in the aforesaid CWJC No. 2703 of 2007. The learned Single Judge directed for appearance of the appellant and thereafter recorded that the appellant appeared before the Court and reported that the direction has been complied with. MJC No. 1846 of 2012 was disposed of on 8.9.2014 taking on record, the factum of compliance. However, on the ground that there was delay on the part of the appellant herein; costs of Rs.10,000/- was imposed. This Letters Patent Appeal is filed assailing the order dated 8.9.2014 passed in MJC No. 1846 of 2012 in so far as it has imposed costs of Rs.10,000/-.

Heard learned counsel for the appellant. None appears on behalf of the contesting respondents.

We do not intend to await the appearance of the respondent nos. 1 to 11. The reason is that the contempt is a matter between the Court and the contemner. The alleged non-

compliance on the part of the appellant herein was about passing of an order on the representation filed by the respondents. It has already been mentioned that the University has been bifurcated and there exist some genuine administrative problems. The mere fact that there was delay in passing the order on the representation made by the respondents must not entail imposing costs against the Vice-Chancellor. We are of the view that the order passed by the learned Single Judge, so far as it has imposed costs cannot be sustained in law.

The present Letters Patent Appeal is accordingly allowed and the order dated 8.9.2014 passed in MJC No. 1846 of 2012 in so far as it has imposed costs of Rs.10,000/- is set aside.

(L. Narasimha Reddy,CJ)

(I. A. Ansari, J)

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