

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.253 of 2013

In

Letters Patent Appeal No. 1728 of 2012

In

Civil Writ Jurisdiction Case No.5522 of 2008

With

Interlocutory Application No. 4466 of 2013

In

Civil Review No.253 of 2013

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1. The Bihar School Examination Board, through its Secretary, Sinha Library Road, Patna.
 2. The Chairman, Bihar School Examination Board, Bihar, Patna.

.... Petitioner/s

Versus

1. Ranjana Kumari, wife of Sumant Kumar, resident of Village Thawara,, P.S- Beriya Beriarpur, District- Begusarai.
2. The State of Bihar.
3. Head Master, Meghraj Mishri Prasad Uchya Vidyalaya, Walipur, District-Lakhisarai.
4. District Education Officer, Munger, District-Munger.
5. District Superintendent of Education, Munger, District-Munger.

..... Petitioner-Respondent

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyabir Bharti, Advocate
For the Respondent No1. : Mr. Sanjay Kumar Griyaghey, Advocate
For the respondent Nos.2 to 5: Mrs. Neetu Jha, A.C. to A.A.G.-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 30-01-2015

Interlocutory Application No. 4466 of 2013

This application under Section 5 of the Limitation Act is filed with a prayer to condone the delay of 7 months and 4 days in preferring the Civil Review petition against the order dated 01.11.2012 passed by

this Court in LPA No.1728 of 2012.

It is stated that the Letters Patent Appeal was allowed at a stage where an objection on the Office notes was to be addressed; whereas not only the delay was not condoned in the LPA, but the appeal was also allowed without hearing the review petitioner herein. It is stated that the review petition was filed as soon as the petitioners came to know about the order passed in the Letters Patent Appeal.

Heard Sri Satyabir Bharti, learned counsel for the petitioners, Sri Sanjay Kumar Griyaghey, learned counsel for the respondent no.1 and Mrs. Neetu Jha, learned A.C. to A.A.G.-6 for the respondent nos.2 to 5.

The record discloses that the petitioners were not put on notice when the LPA was listed. A copy of the concerned cause list dated 1st November 2012 is also filed. LPA No.1728 of 2012 was listed only for 'For orders (on office notes)'.

In that view of the matter, we are convinced with the reasons assigned for the belated filing of the Civil Review petition. The interlocutory application is, accordingly, ordered and the delay is condoned.

This petition is filed with a prayer to review the order dated 01.11.2012 passed by this Court in LPA No.1728 of 2012.

The respondent no.1 herein, filed the Letters Patent Appeal feeling aggrieved by the dismissal of CWJC No.5522 of 2008. The writ petition was filed with a prayer to direct the review petitioners to correct the date of birth in the certificate. The writ petition was dismissed. Thereafter, the LPA was filed with a petition to condone the delay. There were also other office objections.

The review petitioners contend that they were not put on notice on 01.11.2012 and the LPA was at the stage of office objections.

We find that if the LPA itself was not ready for admission, on account of the existence of office objection and delay not having been condoned. The Court ought not to have proceeded to decide the case on merits, that too when the contesting parties were not before it.

We, therefore, review the order dated 01.11.2012 passed in LPA No.1728 of 2012 and recall it.

The delay in filing the Letters Patent Appeal shall stand condoned and the office objection shall stand

removed.

The Letters Patent Appeal shall be listed for admission after four weeks.

(L. Narasimha Reddy, CJ)

(Gopal Prasad, J)

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