

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2157 of 2015

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1. Vivekanand Mishra son of Durganand Mishra resident of village - Yari, P.S. Muffasil, District - Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Magadh Pramandal, Gaya
3. The District Magistrate, Aurangabad
4. The Sub - Divisional Officer, Aurangabad, District - Aurangabad
5. The District Programme officer - Cum - Collector, Aurangabad
6. The Block Development officer, Navinagar, District - Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar No.6

For the Respondent/s : Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-02-2015

The Court has perused the original file relating to institution of the service appeal filed on behalf the petitioner.

Service appeal was filed on behalf of the petitioner through his counsel on 20.5.2014. Obviously, the office has taken a couple of days for registration of service appeal. These are facts which are emerging from the pleading of the petitioner as well as verification of the original file.

The Divisional Commissioner, Magadh Division has been hyper technical and has shirked his responsibility by mechanically rejecting appeal of the petitioner that the appeal has been filed belatedly.

The order of the Court, no doubt, was passed on 22.4.2014 but the appeal was filed on 20.4.2014 and registration was done on 22.4.2014. Such administrative delay in the office of the Divisional Commissioner will not come in the way of the adjudication on merits.

The impugned order contained in Annexure- 7 dated 18.9.2014 passed by the Divisional Commissioner, Magadh Division in Service Appeal No.165 of 2014 is set aside. Matter is remanded back with a direction that he will now decide the matter on merits of the claim of the petitioner. The said decision would be taken within a reasonable time frame, preferably within a period of eight weeks from the date of production of a copy of this order. The petitioner is directed to make due cooperation in adjudication by not taking frivolous adjournments.

Writ is allowed.

(Ajay Kumar Tripathi, J)

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