

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.251 of 2015

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1. Durgi Yadav son of Late Ball Yadav resident of vill.- Gaura, P.O.- Koshita, P.S.-
Magadh Viswavidhalaya, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Magadh Range, Gaya
2. The Collector, Gaya
3. The Deputy Collector Land Reforms, Gaya
4. The Circle Officer, Gaya
5. The District Education Officer, Gaya
6. The Principal, Achutanand Adarsh Vidhalaya, Khagbati, P.O.- Mokharim, P.S.-
Bodh Gaya, District- Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ghosarvey

For the Respondent/s : Mr. GA4- ASHOK PRIYADARSHI

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-02-2015

Heard the parties.

The petitioner approached the Deputy Collector Land Reforms for redressal of his grievance which was considered and rejected by order dated 9.5.2013. Aggrieved thereby, the petitioner filed appeal under Section 14 of the Bihar Land Dispute Resolution Act, 2009 (for short “the Act”). The appeal was preferred on 4.7.2013. The Act provides 30 days time to file an appeal. However, proviso thereto empowers the Appellate Authority to extend the period by 30 days. The purpose behind such provision is to ensure that the appeals which are filed with utmost expediency but beyond 30 days should not be thrown on the ground of limitation. The petitioner, in such



circumstances, made an application to condone the delay in filing the appeal. It appears the appeal was presented beyond 30 days but prior to expiration of 60 days. The same was considered and rejected on the ground that the petitioner failed to prove that he was actually ill. The Appellate Authority also noted that the medical prescriptions produced by the petitioner did not prescribe complete rest. It has been contended that the view taken by the Authority is very pedantic and the valuable legal right of the petitioner ordinarily should not have been denied particularly when the Act itself empowers the Appellate Authority to extend the period of limitation by another 30 days.

The law is well settled that when technical justice is pitted against substantial justice, the Court should lean in favour of substantial justice. The petitioner produced medical prescriptions but failed to produce Pharmacy receipts etc in order to support that he had actually taken medicine. The fact, however, remains that the appeal was preferred well within 60 days. The Appellate Authority, in such matter, could have condoned the delay by imposing a nominal cost.

Taking into account the aforesaid facts, this Court is inclined to exercise its writ jurisdiction to interfere with the order passed by the respondent Commissioner as contained in Annexure-1 and directs that the appeal preferred by the petitioner shall be considered and disposed of on merit, of course, on depositing a cost

in the sum of Rs. 500/- with the Office of the respondent Divisional Commissioner within three weeks from today. Upon such deposit and production of receipt thereof, the respondent Divisional Commissioner shall proceed to consider and dispose of the appeal preferred by the petitioner on its own merit in accordance with law.

The writ application is disposed of.

(Kishore Kumar Mandal, J)

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