

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

**Civil Review No.472 of 2013**

**IN**

**Letters Patent Appeal No. 355 of 2013**

**In**

**Civil Writ Jurisdiction Case No.17311 of 2012**

- =====
1. State Information Commission through its Joint Secretary-Cum-Additional Registrar, State Information Commission, Bihar, Patna.
  2. Joint Secretary cum Additional Registrar, State Information Commission, Bihar, Patna.

.... .... Petitioner/s

**Versus**

1. Central Selection Board of Constables through its Public Information Officer namely Chandra Shekhar Prasad Singh, Bank Harding Road, Near Sachivalaya Halt, Patna, Bihar.

Appellant- Opposite Party

2. Sajan Kumar Sah, Son of Ramashish Sah, Resident of Village Maidapur, P.S. Bochha, District Muzaffarpur

.... .... Respondent-Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Lalit Kishore, Senior Advocate, P.A.A.G

Mrs. Binita Singh, Advocate

For the Respondent no.1 : Mr. A. K. Singh, Senior Advocate

Mr. Kunal Tiwary, Advocate

For the Respondent no.2 : Mr. Raj Kumar Rajesh, Advocate

Mr. Girish Chandra, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**And**

**HONOURABLE MR. JUSTICE VIKASH JAIN**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 11-03-2015**

**Interlocutory Application No.9182 of 2013**

This application is filed with a prayer to condone the delay of 3 months and 25 days in filing the review application.

We heard the learned counsel for the appellants and the learned counsel for the respondents and we are satisfied with the reasons mentioned in the application. The delay is condoned.

Interlocutory Application stands disposed of.

**Civil Review No.355 of 2013**

This application is filed with a prayer to review the order dated 09.07.2013 passed in LPA No.355 of 2013. The facts, in brief, are as under.

The 2<sup>nd</sup> respondent herein submitted an application before the P.I.O. of the concerned department under the Right to Information Act (for short, 'the Act'), with a prayer to furnish some information relating to selection of constables. Complaining that the information was not furnished, he filed an appeal and thereafter 2<sup>nd</sup> appeal before the State Information Commission- 1<sup>st</sup> petitioner herein. The 2<sup>nd</sup> Appeal being Case No.42430 of 2010-11 was taken up for hearing on 13.12.2011 but there was no representation on behalf of the 2<sup>nd</sup> respondent. However, the 1<sup>st</sup> petitioner passed a reasoned order and closed the appeal. Thereafter, the 2<sup>nd</sup> respondent filed an application before the 1<sup>st</sup> petitioner complaining that the

required information was not furnished. Acting on that, the 1<sup>st</sup> petitioner passed an order on 08.08.2012 directing the 1<sup>st</sup> respondent to furnish some more information.

Challenging the order dated 08.08.2012, the 1<sup>st</sup> respondent filed CWJC No.17311 of 2012. The learned Single Judge dismissed the writ petition through order dated 18.09.2012. Aggrieved by that, the 1<sup>st</sup> respondent filed LPA No.355 of 2013.

One of the grounds urged by the 1<sup>st</sup> respondent was that the 1<sup>st</sup> petitioner does not have the power to review its own order and accordingly, the order dated 08.08.2012 is without jurisdiction. That ground weighed with the Division Bench, of which one of us (Hon'ble Mr. Justice Vikash Jain), is a member; and the LPA was allowed. An observation was made to the effect that the 2<sup>nd</sup> respondent can avail the remedy of an appeal under Section 19 of the Act.

The petitioners herein seek review of the order under appeal, only to the extent it has permitted the 2<sup>nd</sup> respondent to file an appeal under Section 19 of the Act. According to them, the Act does not provide for any further appeal against the order passed by the State or Central Information Commission.

Heard Sri Lalit Kishore, learned Principal Additional Advocate General for the petitioners, Sri A.K. Singh, learned senior

counsel for the respondent no.1 and Sri Raj Kumar Rajesh, learned counsel for the respondent no.2.

The principal contention that weighed with the Bench which passed the order in the LPA is that the authority cannot exercise the power of review unless the power of review is conferred under the concerned enactment. There is no quarrel with this proposition nor any contention is raised in this behalf. The only concern of the petitioners here is about the observation in page 4 of the order, which reads as under:

*“The only option available to the respondent no.3 (respondent no.2 herein), in view of the detailed nature of the order dated 13.12.2011 was to file an Appeal under Section 19 of the Act.”*

It has already been mentioned that what was filed before the 1<sup>st</sup> petitioner was the 2<sup>nd</sup> appeal under Section 19 of the Act. That was disposed of on 13.12.2011. Another order passed by the 1<sup>st</sup> petitioner on 8.8.2012 was treated as constituting review of the same; and accordingly it was set aside. Obviously, with a view to keep other avenues for the 2<sup>nd</sup> respondent open, and to enable him to pursue his remedy, the said observation was made, but inadvertently, reference was made to Section 19. Whether one goes by the remedies that have already been availed by the 2<sup>nd</sup> respondent, or the

Scheme under the Act, there does not exist any further appeal, i) against the order passed in 2<sup>nd</sup> appeal and ii) against the order passed by the State Information Commission.

It is fairly well settled that an application for review can be entertained if an inadvertent mistake in relation to the reference to the provision of law has been crept into the order. Such a situation obtains in this case.

We, therefore, allow the review application and replace the sentence, “The only option available to the respondent no.3 (respondent no.2 herein), in view of the detailed nature of the order dated 13.12.2011 was to file an Appeal under Section 19 of the Act.” with one, “It shall be open to the 3<sup>rd</sup> respondent, i.e. the 2<sup>nd</sup> respondent herein, to avail the remedy in accordance with law”.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

**(L. Narasimha Reddy, CJ)**

**(Vikash Jain, J)**

**AFR**  
Sunil/-

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