

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17403 of 2014

Ram Swaroop Yadav, S/o Late Mohan Yadav of Badki Dhaba, At present Akbarpur Bazar, P.S. Akbarpur, District Nawada.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Department of Home.
2. Commissioner, Magadh Division.
3. The District Magistrate cum Licensing Authority, Nawada.
4. The Superintendent of Police, Nawada.

.... Respondents

with

Civil Writ Jurisdiction Case No. 19728 of 2014

Raj Kumar Prasad, son of Mahadeo Prasad, resident of Chotki Budhuva, At present village - Tanti, P.S. Akwarpur, District - Nawada

.... Petitioner

Versus

1. The State of Bihar through Secretary, Department of Home
2. Commissioner, Magadh Division
3. The District Magistrate Cum Licensing Authority, Nawada
4. The Superintendent of Police, Nawada

.... Respondents

Appearance :

(In CWJC No. 17403 of 2014)

For the Petitioner : Mr. Y. C. Verma, Sr. Advocate
: Mr. Anuj Kumar, Advocate
: Mr. Bibuti Narayan, Advocate
For the Respondent/s : Mr -Abbas Haider. SC16
: Mr. Ranjay Kr. Singh, AC to SC 16

(In CWJC No. 19728 of 2014)

For the Petitioner :
For the Respondents :

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 09-05-2016

Heard parties.

In both the cases, petitioners are aggrieved by the appellate orders as contained in Annexures 5 and 3 respectively by



which their respective appeals have been dismissed in view of delay of one and eight days respectively. In both the cases, it was urged on behalf of the appellants that the appeals are within time, however, it has been held by the appellate authority that the delays are of one and eight days respectively in both the appeals and no petitions have been filed for condoning the delay.

In my considered view, the endeavour of the authority should be to decide the appeals on merit especially when the delay is of such a short period of one day and even eight days and in such a situation, the appellate authority should have granted time to the appellant to file a petition for condoning the delay and on considering grounds raised by the appellant, a decision should have been taken.

Accordingly, both the writ petitions are allowed. The appellate order as contained in Annexures 5 and 3 respectively are quashed and set aside. The petitioners would be required to file a petition for condoning the delay in both the cases along with a copy of this order which should be considered by the appellate authority and thereafter, a decision in accordance with law would be required to be taken by it.

However, it is made clear that while doing so, the appellate authority would be obliged to consider the decision of the Apex Court rendered in S. Ganesharaju (Dead) through LRS. And another vs. Narasamma (Dead) through LRS. And others

(2013) 11 SCC pg. 341 holding that in the aforesaid case that delay of 53 days would certainly not at all fall in the category of exorbitant or inordinate delay and that should be condoned in a routine manner.

It is expected that the decision would be taken by the appellate authority expeditiously.

(Dr. Ravi Ranjan, J.)

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