

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.398 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 325 of 2014

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Mithilesh Thakur Son of Sri Rajendra Thakur Resident of Village - Kuseta, P.S.
Hilsa, District - Nalanda

.... Appellant/s

Versus

1. The State Of Bihar through the Chief Secretary, Government Of Bihar, Patna
2. The Chairman, Bihar Staff Selection Commission, Patna
3. The Secretary, Bihar Staff Selection Commission, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gajendra Kumar Jha with
Mr. Bam Bahadur Jha and
Mr. Sushil Kumar Jha, Advocates.

For the Respondent/s : Mr. Sushant Praveer, AC to SC-9

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 28-07-2016

The order dated 13th January, 2014 passed by the learned Single Bench in C.W.J.C. No. 325 of 2014 is the subject matter of challenge in the present Letters Patent Appeal. By the order impugned, the claim of the appellant for consideration as candidate belonging to Other Backward Class remained unsuccessful.

The appellant applied to Bihar Staff Selection Commission (hereinafter referred to as the 'Commission') for appointment to the post of Sub- Inspector of Police in response to an Advertisement No. 704 of 2004. The appellant claims to be the successful candidate in the second merit list published after rectification of errors.

An advertisement was published on 01.10.2011 by the Commission *inter alia* asking for caste certificate from those claiming the benefit of reservation. The condition was that the certificate must be submitted by 04.11.2011. The appellant submitted the caste certificate after the cutoff date i.e., 05.11.2011.

The claim of the appellant has not been considered for appointment. Therefore, he filed earlier writ application being C.W.J.C. No. 3440 of 2012. The said writ application was allowed on 15.03.2012 with a direction to the respondents to consider condonation of delay as a matter of policy, which may apply across the Board to all candidates as distinct from individual justice. It is thereafter the Board decided not to extend the cutoff date.

Learned counsel for the appellant relies upon the Supreme Court judgment reported as **AIR 2016 SC 1098 (Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board)** to contend that for delayed submission of caste certificate, the candidature should not be rejected. However, we find that such judgment has no applicability to the facts of the present case. In the reported case, the candidate applied but without the caste certificate, therefore, the caste certificate was permitted to be submitted subsequently. But in the present case, there was a cutoff date in respect of caste certificate alone. The appellant did not submit the caste certificate within the cutoff date. Once the cutoff date is fixed

to do a particular thing, it must be done within the time so granted. Admittedly, the caste certificate was not filed within the time granted. Therefore, the candidature of the appellant could not be considered for appointment.

The appellant may not be the sole candidate whose application was not received within the time granted. Therefore, the candidature of the appellant alone cannot be ordered to be considered unless it is decided by the Commission to consider all applications received after the cutoff date. Since it is a matter of policy and the Commission has decided not to extend the cutoff date, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal.

The Letters Patent Appeal is, accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A