

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.531 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 16760 of 2013

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Ramanand Kumar Son Of Shiv Shankar Prasad Yadav Resident Of Village-
Kaloutha, Police Station- Chatra, District- Madhepura

.... Appellant/s

Versus

1. The State Of Bihar through Principal Secretary, Human Resources Department,
Government Of Bihar, Patna
2. Director, Primary Education, Government Of Bihar, Patna
3. District Magistrate, Madhepura
4. District Education Officer, Madhepura
5. Block Development Officer, Murliganj, District- Madhepura
6. Block Education Officer, Murliganj, District- Madhepura
7. Bihar School Examination Board, Patna through its Chairman, Patna
8. Head Master, New Srijit Primary School, Sant Nagar, District- Madhepura

.... Respondent/s

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Appearance :

For the Appellant	:	Mr. Uday Chand Prasad with Mr. Manoj Kumar, Advocates
For the State	:	Mr. Subhash Chandra Mishra, SC 16
For the Respondent no. 7	:	Mr. S. S. Mishra, Advocate

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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: 23-08-2016

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 29th August, 2013
whereby the writ application filed by the petitioner was dismissed on
account of delay and laches.

The challenge in the writ petition was to an order dated
05.05.2008 passed by the Block Development Officer whereby the
appointment of the appellant as Panchayat Teacher was cancelled.

Such order of cancellation for appointment was challenged in the year 2013 i.e., after a delay of 5 years. The learned Single Bench has found that such writ petition suffers from gross delay and laches and cannot be entertained.

The sole argument before the learned Single Bench as well as before this Court is to an order of this Court in C.W.J.C. No. 10545 of 2012 (Santoshi Kumari & Anr. Vs. State of Bihar & Ors.) decided on 22.06.2012 whereby cancellation for appointment of the appellant was set aside.

We do not find any merit in the argument raised by learned counsel for the appellant. In Santoshi Kumari (supra) case, the impugned order was passed on 26.03.2012 and the same was challenged in the year 2012 itself and was set aside on 22.06.2012. There was no question of delay and laches in the aforesaid case. In the present case, the appointment was cancelled in the year 2008 and such cancellation of appointment is being challenged after more than five years.

The order of cancellation leads to cessation of contract and, thus, was required to be challenged within a period of limitation. It has been held that even a void order is required to be challenged within a period of limitation as in the case of State of Punjab vs. Gurdev Singh reported as AIR 1991 SC 2219. The Hon'ble Supreme

Court was dealing with a challenge to an action of dismissal before the Civil Court. Broadly, the said principle can be applied in a proceeding before the Writ Court as well.

In view of gross delay and laches, we find that the writ petition has been rightly dismissed by the learned Single Bench.

The Letters Patent Appeal is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P. Kumar

AFR/NAFR	NAFR
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