

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.773 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 22831 of 2011
Along with
Interlocutory Application No. 3202 of 2015

=====

Parmanand Singh, son of Ram Japan Singh, resident of Village- Adharpur, Tajpur,
P.S. Teghra, District-Begusarai.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Panchayati Raj Department, Government of Bihar,
Patna.
3. The Divisional Commissioner, Munger Division, Munger.
4. The District Magistrate Begusarai.
5. The Sub-divisional Officer, Begusarai.
6. The Director, Accounts Administration and Self Employment District Rural
Development Authority, Collectorate Begusarai.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Jitendra Kumar Roy, Advocate.

For the Respondent/s : Mr. Anjani Kumar, AAG 4
Mr. Sanjay Prasad, AC to AAG 4

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 11-08-2016

Re.: Interlocutory Application No. 3202 of 2015

The application is for condonation of delay of 03 years
and 23 days in filing of the appeal.

2. For the reasons mentioned in the application, we find

that sufficient cause is made out for condonation of delay. Consequently, the delay of 03 years and 23 days in filing of the appeal is condoned.

3. I.A. No. 3202 of 2015 stands disposed off.

Re.: Letters Patent Appeal No. 773 of 2015

4. Heard learned counsel for the parties.

5. The challenge in the present Letters Patent Appeal is to the order dated 30.01.2012 of the learned single Bench by which CWJC No. 22831 of 2011 filed by the appellant has been dismissed.

6. The appellant was appointed as Panchayat Sachiv in Barauni Block of Begusarai District on 28.07.2001. On the basis of enquiry conducted by the Director, Accounts Administration and Self Employment, District Rural Development Authority, Begusarai on 31.01.2007, charges were framed against the appellant on 24.04.2008 and the Sub Divisional Officer, Begusarai was appointed as the enquiry officer and thereafter an enquiry report was submitted and a second show cause notice was issued to the appellant on 15.07.2009. As he did not submit any reply, three reminders were sent to him and the District Magistrate, Begusarai thereafter passed order of dismissal dated 29.07.2011.

7. The appellant preferred appeal before the Divisional Commissioner, Munger, which was dismissed by order dated

11.10.2011. The said two orders were assailed in CWJC No. 22831 of 2011 by the appellant and dismissal of the writ petition by the learned single Judge on 30.01.2012 has given rise to the present appeal.

8. Learned counsel for the appellant submits that he was not given adequate opportunity during enquiry and neither notice was served on him nor second show cause notice given. He submits that he was also not given any chance to cross-examine the witnesses and that the so called confessional statement, during preliminary enquiry, was not in his signature, as the original document was not produced, and the conclusion so arrived that it was his signature, is based only on conjectures and surmises. He further submits that though the Mukhiya was also involved, but only he has been singled out for action.

9. Learned counsel for the State submits that the charge against the appellant was of having taken illegal gratification from the beneficiaries under the Indira Awas Yojana and that he had acknowledged receipt of money received by him and had also offered to return the same, which clearly proves his complicity. Learned counsel submits that in the preliminary enquiry dated 31.01.2007, 11 persons, from whom money was taken, contrary to law, have taken the name of the appellant and he is alleged to have done so in presence of the then Mukhia Mr. Suresh Rai. He submits that 11 complainants had categorically stated that they had paid money in the

hand of the petitioner. It is submitted that the appellant also gave in writing to the complainants on 25.04.2006, that he shall return the money on 07.06.2006.

10. Having considered the rival contentions, we do not find any merit in the appeal. The plea of the appellant that he was not given adequate opportunity to defend himself or that no notice was served on him on any stage, is not correct in view of finding recorded in the appellate order of the Divisional Commissioner, Munger dated 11.10.2011. The following portions of the order is self explanatory:

“ G.P.(I) submitted, that on the file of the order, it is apparent that the appellant was given reasonable opportunity to explain his position. Once, the Appellant was served the notice and the proof is on record. The DPRO, Begusarai appeared and showed the relevant papers.

The DPRO Sri Manan Ram proved that the show cause was served through the B.D.O. on 20.7.2009 and 21.10.2009.

xxx

xxx

xxx

The DPRO who was present in the court proved that the charged Panchayat sevak received notice alongwith 65 enclosures the receipt is on record.....”

11. Thus, it is apparent that the procedure followed during the departmental proceeding does not suffer from any illegality. Moreover, no prejudice has been caused to the appellant as he had ample opportunity to defend himself and was even given full

opportunity of hearing by the Appellate Authority.

12. Further, we are in agreement with the reasoning given by the learned Single Bench in his order dated 30.01.2012, both on facts as well as in law.

13. In view thereof, 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, which, accordingly, stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30.08.2016
Transmission Date	