

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

**Letters Patent Appeal No.626 of 2015**

**Along with**

**Interlocutory Application No. 2735 of 2015**

**Arising out of**

**Civil Writ Jurisdiction Case No. 1588 of 2010**

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Rajiv Kumar Jaiswal Son of Kanhaiya Pd. Jaiswal @ Kanhaiya Pd. (Son of deceased Jagannath Sah) Permanent Resident of village - Keshraura Kala, P.S. - Adhaura, District - Kaimur (Bhabhua), present Resident of village Sabar, P.S. Sabar, District- Kaimur at Bhabhua.

.... .... Appellant/s

Versus

1. The State of Bihar, through the Chief Secretary, Bihar, Patna.
2. The Home Commissioner, Bihar, Patna
3. The District Magistrate -cum-Collector, Kaimur at Bhabhua.
4. The Superintendent of Police, Kaimur at Bhabhua
5. The Sub Divisional Officer, Bhabhua, District- Kaimur at Bhabhua.
6. The Block Development Officer Adhaura, P.S. Adhaura, District- Kaimur at Bhabhua.
7. The Circle Officer Adhaura, Distt. Kaimur at Bhabhua.
8. The Officer-In-Charge P.S. Adhaura, District- Kaimur at Bhabhua.

.... .... Respondent/s

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**Appearance :**

For the Appellant : Mr. Pancham Lal Jaiswal with  
Mr. Rajbali Singh, Advocates

For the State : Mr. Md. Irshad, AC to SC 1

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**CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA**

**and**

**HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)**

**Date: 30-08-2016**

Heard learned counsel for the parties.

Re.: Interlocutory Application No. 2735 of 2015

The Interlocutory Application has been filed seeking condonation of 2 years and 71 days delay in filing of the Letters Patent Appeal.

Upon hearing learned counsel for the parties and

considering the submissions made in the Interlocutory Application, we find that sufficient cause has been shown for delay in filing of the appeal. Consequently, the delay in filing of the Letters Patent Appeal is condoned.

Interlocutory Application No. 2735 of 2015 stands disposed off.

Re.: Letters Patent Appeal No. 626 of 2015

The challenge in the present intra-court appeal under Clause X of the Letters Patent of Patna High Court is to the order dated 05.04.2011 passed by the learned Single Bench by which C.W.J.C. No. 1588 of 2010 filed by the appellant has been dismissed.

The grand father of the appellant was killed on 15.12.1996. Pursuant to the F.I.R registered, the father and uncle of the appellant moved the Court in C.W.J.C. No. 6454 of 1999, which was allowed to be withdrawn by order dated 14.08.2003, to enable them to file appeal in view of the judgment rendered in the case of **Dharam Shila Kuer v. State of Bihar** reported as **2002 (3) PLJR 497**. The authorities in terms of government circular no. 1701 dated 21.09.1987, had paid Rs. 20,000/- as *ex gratia* grant. The said circular did not provide for any compassionate appointment to the dependent of the person killed. In terms of the orders of the Court dated 14.08.2003, the appeal preferred by the family members of the appellant on 15.10.2003 was



rejected by order dated 04.08.2007, on the ground that the killing of the deceased was purely a criminal offence and, thus, no compensation or job could be provided. The appellant thereafter has moved the Court in C.W.J.C. No. 1588 of 2010, for payment of compensation and grant of appointment on compassionate ground and also for quashing of order dated 04.08.2007, and dismissal of the same by the learned Single Bench by order dated 05.04.2011 has given rise to the present Letters Patent Appeal.

Learned counsel for the appellant submitted that as per the government policy the death having occurred due to killing by the extremists, both compensation and compassionate appointment was to be provided to the family of the deceased, who was the grand father of the appellant, and denial of the said is arbitrary and unreasonable. It was submitted that the ground for rejection being that killing was a simple case of criminal activity is contrary to the fact as disclosed in the F.I.R. which clearly states that the extremists had killed the grand father of the appellant.

Learned counsel for the respondents submitted that at the time when the grand father of the appellant was killed, there was provision for only payment of *ex gratia* compensation of Rs. 20,000/- in terms of the circular dated 21.09.1987, which has been paid to the father and uncle of the appellant. It was further submitted that the

authorities have looked into the matter and had passed an order turning down the request for compensation and compassionate appointment in terms of the subsequent circulars of the State Government, which cannot be faulted.

Having considered the rival contentions, we do not find any merit in the present Letters Patent Appeal. Any special treatment given to any section of the population has to be under a well defined policy of the State, based on reasonable and rational classification which can stand the test of Articles 14 and 16 of the Constitution of India. In the present case, grant of compensation and/or appointment on compassionate appointment were subject to the policy made by the State and in the year 1996 when the grand father of the appellant was killed, that is, as per the circular dated 21.09.1987, which provides only for *ex gratia* grant of Rs. 20,000/- to the dependants of each of the persons killed in terrorist/extremist/caste related attacks and the District Magistrate was vested with the powers to sanction and make payment of the said amount. No provision was made for any compassionate appointment. Moreover, the family members of the appellant had moved this Court earlier in C.W.J.C. No. 6454 of 1999 praying for such relief but the same was withdrawn on 14.08.2003 for filing appeal before the State. Mere permission given to file appeal would not entitle the appellant or his other family members to be

considered under any scheme which came into force much after the event had occurred. The authorities, thus, having paid the maximum amount of *ex gratia* of Rs. 20,000/- to the dependants of the grand father of the appellant under the circular in force at the relevant time, have discharged the liability to the extent it was required under law. Further, the death having occurred in the year 1996 and the immediate dependents of the deceased, that is, father, uncle etc. being still alive and 20 years having elapsed, coupled with the fact that the appellant is the grand son, we do not find any reason to interfere in the matter. In addition to the same, we are in agreement with the reasoning given by the learned Single Bench for dismissing the writ application.

In view of the aforesaid, 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)**

Anjani/-

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