

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1886 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 5220 of 2015
Along with
Interlocutory Application No.8487 of 2015

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1. Dr. Ram Balak Singh Gaya Homeopathic College and Hospital, Amwan, Bodh Gaya through its Principal Dr. Ravindra Kumar, Amwan Bodh Gaya.
 2. Principal, Dr. Ram Balak Singh Gaya Homeopathic College and Hospital, Amwan, Bodh Gaya.

.... Petitioners-Appellants

Versus

1. The Union of India through Secretary, Ministry of Health and Family Welfare, Department of AYUSH I.R.C.S. Annexe Building, 1- Red Cross Road, New Delhi- 110001.
2. Director, AYUSH, Health and Family Welfare, Department of AYUSH I.R.C.S. Annexe Building, 1-Red Cross Road, New Delhi- 110001.
3. Central Council for Homeopathy through its Secretary, 61-65, Institutional Area, Janakpuri, New Delhi 110058.
4. The State of Bihar through its Secretary, Department of Health, Bihar.
5. The Director (AYUSH), State of Bihar, Patna.
6. B.R.A. Bihar University, Muzaffarpur, Bihar.

.... Respondents-Respondents

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Appearance :

For the Appellants : Mr. Yugal Kishore, Senior Advocate
Mr. Virendra Prasad, Advocate
Mr. Ugranath Mallik, Advocate
Mr. Sanjay Kumar, Advocate

For the Respondents-UIO : Dr. Punam Kumari Singh, C.G.C.

For the respondents- C.C.H. : Mr. Anil Kumar Sinha, Senior 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: 25-07-2016

Re.: Interlocutory Application No.8487 of 2015

The application is for condonation of delay of 108 days in

filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.1886 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 7th of April, 2015 wherein, challenge to the order dated 9th of March, 2013 whereby, request of the appellant to start new P.G. courses in Materia Medica, Homoeopathic Repertory, Homoeopathic Pharmacy, Practice of Medicine and Organon of Medicine and Pediatrics was declined.

2. The grievance of the appellants is that a notice dated 18th of March, 2013 was served upon the appellants to appear before the designated hearing committee in the department of AYUSH on 22nd March, 2013 at 11 A.M. The appellants informed through mail and letter that on such a short notice, it is not feasible to reach Delhi due to non-availability of reservation in trains due to peak season of Holi festival on 28th of March, 2013 in Bihar. It is thereafter, the appellants were communicated on 16th of April, 2013 that the appellants have failed to appear and that the claim raised by the appellants cannot be

accepted.

3. Learned counsel for the appellants vehemently argued that the notice was issued on 18th of March, 2013 for 22nd March, 2013 and since there was no sufficient time, the representative of the appellants could not get reservation to appear before the authority at New Delhi.

4. The fact remains that the College received information on 18th of March, 2013 itself. The hearing on 22nd March, 2013 was fixed after finding the availability of the representative of the appellants as is apparent from the communication dated 16th April, 2013. Still further, the four days' notice was not an impossible notice which could not be complied with as the connectivity through train is not the only mode of conveyance reaching Delhi.

5. Still further, the order was passed on 16th of April, 2013, but the appellants filed writ petition only in April, 2015, i.e. after two years. If the grievance of the appellants was that there was not sufficient notice, the appellants should have been vigilant enough and invoked the jurisdiction of the Court soon after the communication was received so as to raise a grievance. Long silence on the part of the appellants shows their lack of seriousness to the objections raised by the respondents or other collateral reasons.

6. We do not find any illegality in the order of the learned

Single Bench which warrants interference in the present intra Court appeal. The Letters Patent Appeal is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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CAV DATE	N. A.
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