

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1770 of 2015

In
Civil Writ Jurisdiction Case No.15458 of 2013

-
-
1. Ram Bishun Verma, son of Late Ramashish Verma, resident of vill.- Subhankarpur, P.S.- Simaraha, District- Araria.
 2. Md. Salimuddin, son of Late Rakimuddin, resident of village- Khatta, Toli, P.S.- Rouda, District- Purnea.

... .. Appellant/s

Versus

1. The Bihar School Examination Board through it's Chairman, Patna.
2. The Secretary, the Bihar School Examination Board, Patna.
3. The Controller of examination, the Bihar School Examination Board, Patna.
4. The Principal, Primary Teachers Training College (District Education and Training Institute), Kishanganj.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dilip Kumar Tiwary, Advocate Mr. Amit Kumar Anand, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, Sr. Advocate Ms. Binita Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY)

Date : 08-09-2017

The instant Letters Patent Appeal has been filed by the appellants against the order dated 21.8.2015 passed by the learned Writ Court in CWJC No. 15458 of 2013.



The appellants herein had filed the writ application for quashing of the order contained in memo no. T.T. Pre. 936 dated 15.5.2013 whereby the claims of the appellants for issuance Marks-sheets and Original Certificate was rejected. The appellants have prayed for a direction to the respondents to supply Marks-Sheets and Original Certificates of passing Teachers Training Examination,1994.

The short facts necessary for adjudicating the present Letters Patent Appeal lies in narrow compass. The appellants have undergone Teachers Training in the academic sessions 1992-93 and appeared at the final examination conducted by the Bihar School Examination Board in the year 1994 and after nearly 18 years they applied under the Right to Information Act soliciting information with regard to publication of their result and they received communication on 21.12.2012 that it is not possible to supply them any information as the concerned records have been destroyed. The appellants thereafter filed an application before the Bihar School Examination Board for publication of their result on 22.5.2012. When no action was taken on the application filed by the appellants, they filed CWJC No. 12997 of 2012 and the said writ application was disposed of on 14.9.2012 with a direction to the respondents to dispose of the representation by speaking order.



The appellants thereafter filed representation and requested for supply of Marks Sheet and Original Certificates to them. The appellants thereafter filed MJC No. 1026 of 2013 for initiating contempt proceedings for non-compliance of the direction of the Court dated 14.9.2012 in CWJC No. 12997 of 2012. The Examination Board thereafter issued memo no. T.T. Pre. 936 dated 15.5.2013, whereby the claim of the appellants for supply of Marks Sheets and Original Certificates was rejected. The appellants challenged the aforesaid decision by filing CWJC No. 1558 of 2013. The learned Writ Court on consideration of the fact that no record is available with the Examination Board, declined to grant any indulgence into the matter and the writ application was dismissed. Aggrieved by the decision of the Writ Court the present Letters Patent Appeal has been filed.

Mr. Dilip Kumar Tiwary, counsel for the appellant vehemently argued that the appellants appeared in the examination conducted by the Bihar School Examination Board and the Marks Sheets and Certificates can be provided to them by the respondent-Board by constructing the records from the Tabulation Register available in the concerned College. He submitted that the appellants have filed the writ application when the information



was received under the Right to Information Act that the records are not available.

From perusal of the records, we do not find any justification for approaching the Writ Court after nearly 18 years. From the materials on record, it appears that no record is available with the Board. In the absence of availability of the record with the Board this Court cannot issue any direction to supply Marks Sheets or Original Certificates as the same can only be provided on the basis of original records and if no such record is available, the Court is helpless in granting any relief to the appellants. The remedy of writ petition is available to a diligent litigant and not to an indolent who slept over his rights for such a long time. The appellants in this appeal are responsible for their unfortunate fate as they have not approached the Writ Court as vigilant and diligent litigants within a reasonable time. If the records pertaining to examination is not available with the Examination Board, this Court cannot issue any direction to construct the documents or prepare record at this stage to provide Marks Sheet and Certificates to the appellants.

In the peculiar facts and circumstances of the case, the inordinate delay in filing the writ application has disintitiled the appellants from any equitable relief. The delay and laches are



most important consideration in granting relief under Article 226 of the Constitution of India.

Considering the entirety of the fact situation, we do not find any error in the decision of the learned Writ Court warranting reconsideration.

The appeal is therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2017
Transmission Date	

