

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.681 of 2017
Arising out of
Civil Writ Jurisdiction Case No. 3751 of 2016**

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Minta Devi, Wife of Raj Kumar Yadav, Resident of Village-1-Tetaria, P.S.-Pali,
District-Jahanabad.

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Government of Bihar,
Patna.
3. The Director, I.C.D.S, Government of Bihar, Patna.
4. The District Magistrate, Jehanabad
5. The District Programme Officer, Jahanabad.
6. The Child Development Project Officer, Kako Jahanabad.
7. Smt. Kumari Soni Wife of Raju Kumar Malakar, Resident of Village-Teteria,
(Ward No.-1) P.O.-Khailabad Netoul, Panchayat, Uttar Serthu, District-Jahanabad.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Jitendra Singh, Sr. Advocate Mr. Shashi Bhushan Kumar, Advocate Ms. Arti Kumari, Advocate
For the Respondent/s	:	Mr.Kaushal Jha, AAG-8

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-08-2017

Appellant was working on the post of Anganwari
Sevika and due to her involvement in a criminal case the District
Programme Officer, Jehanabad vide order dated 06.05.2015
terminated her service. She preferred an appeal under Clause 11 of
the Margdarshika issued under the Integrated Child Development
Scheme, Bihar and the appeal which was registered as Misc.



(Anganbari) Appeal No. 33/D.M./15 was rejected by the District Magistrate-cum-Collector, Jehanabad by recording a note in the left hand side margin of the Memorandum of Appeal which reads as under:-

“Late filed. No application for
condoning delay. Rejected.
29.12.2015”

Challenging the aforesaid order the writ petition was filed and the Writ Court also rejected the prayer of the learned counsel for the appellant to remit the matter back to the Collector for reconsideration by holding that the appellant’s Memorandum of Appeal did not accompany any petition for condonation of delay.

We are of the considered view that when the District Magistrate-cum-Collector was discharging functions, quasi judicial in nature, based on certain authority vested upon him by a scheme formulated by the State Government and when the appellant had filed an appeal challenging her termination, substantial justice ought to have been done to the appellant and the matter decided on merit by considering various aspects of the matter and even if the Collector found that the Memorandum of Appeal did not accompany an application for condonation of delay, the Collector, in the interest of justice, should have noticed the appellant or her counsel about the



same, granted them an opportunity to file an application for condonation of delay and thereafter proceed to hear the matter and pass a speaking order instead of rejecting it by making the note as indicating hereinabove in the margin. The Collector discharges quasi judicial function and, therefore, has to ensure that opportunity of hearing and substantial justice is done to the parties and appeals are not decided in the manner as has been done in the present case.

We are of the considered view that the learned Writ Court also lost sight of this vital aspect of the matter and dismissed the writ petition in limine without taking note of all these factors. Considering the totality of the circumstances, we allow this appeal, quash the order passed by the Writ Court on 18.03.2017 in C.W.J.C. No. 3751 of 2016 and the Collector, restore the appeal to its original file, direct the appellant to file an application for condonation of delay before the District Magistrate within a period of one month from the date of receipt of certified copy of this order and thereafter the Collector to proceed to decide the appeal on merit in accordance with law. During the course of hearing, we were informed that Respondent No. 7 has been selected for appointment but she has not joined. If that be so, appellant to implead Respondent No. 7 also in the proceedings pending before the Collector and the Collector after notice to Respondent No. 7 and all concerned, shall proceed in the



matter and decide the appeal within a period of three months.

With the aforesaid, the Letters Patent Appeal stands disposed of.

This Court has not gone into the merits of the matter and the findings if any on merit given by the Writ Court should be ignored and the Collector shall decide it afresh in accordance with law.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

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