

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1729 of 2012

In
Civil Writ Jurisdiction Case No.9918 of 1997

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| 1. | Chandra Kala Devi, wife of Late Sahindra Sah |
| 2. | Rakesh Ranjan |
| 3. | Rajeev Ranjan, both sons of Late Sahindra Sah |
| 4. | Kumari Poonam, daughter of late Sahindra Sah, all R/O village and
PO Banchauri, P.S. - Dumara, District - Sitamarhi |

... .. Appellant/s

Versus

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| 1. | The State Of Bihar |
| 2. | The Food Secretary, Government Of Bihar, Patna |
| 3. | The Bihar State Food And Civil Supplies Corporation Ltd. Through Its
Managing Director |
| 4. | Sri S.N. Dubey S/O Name Not Known, The Managing Director, Bihar State
Food And Civil Supplies Corporation Ltd. Patna |
| 5. | Sri Ramadhani Tiwari S/O Name Not Known The Chief Administrator Cum
Inquiry Officer, Bihar State Food And Civil Supplies Corporation Ltd. Patna |
| 6. | The District Manager, Bihar State Food And Civil Supplies Corporation Ltd.,
Muzaffarpur |

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rakesh Narayan Singh,, Advocate
For the Respondent/s	:	Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 31-10-2017 I. A. No. 3199 of 2016:

This is a petition for substitution of the legal heirs of the
appellant, who is stated to have died on 12.2.2016.

As the right is available to the legal heirs of the appellant,
the substitution petition is allowed. Let necessary correction be
made in the course of the day.

The interlocutory application is allowed and disposed of.



LPA No. 1729 of 2012.

Having heard learned counsel for the parties, we find that CWJC No. 9918 of 1997 was filed by the appellant and initially when he had filed the writ petition in the year 1997, he had sought for quashing of the order of suspension and quashing of the illegal enquiry report and the show cause notice issued to him and also claimed various benefits.

However, the learned Writ Court instead of allowing the appellant to amend the writ petition and bring on record subsequent developments that had taken place between 1997-98, dismissed the writ petition without allowing the amendment and without taking note of the appropriate grievance of the appellant in its right perspective and not only dismissed the writ petition but made various observations to say that the petition is misconceived and frivolous and the petitioner is not entitled to any relief. However, the Writ Court did not consider the subsequent development and the grounds raised for the amendment sought to be incorporated and even without considering the fact that against the order of the competent authority the appellant had remedy of a statutory appeal, dismissed the writ petition by making various observations which adversely affected the writ petitioner.



In our considered view, it would have been more appropriate for the Writ Court to have relegated the appellant to take recourse to the statutory remedy of appeal or at least permitted amendment in the writ petition and adverted to consider the amended writ petition and taken a decision on merit. Instead of doing so, making observations about the petition being frivolous and misconceived writ petition, in order considered view, was not appropriate. The writ petitioner having been visited with an order of penalty, should have been given a reasonable opportunity of hearing at least before the appellate authority and thereafter reconsidered before the Writ Court. This having not been done, we allow this appeal and expunge each and every observations and remarks made in the order dated 13.7.2012 under challenge and issue following directions:

(1) The appellants will file an appeal before the appellate authority within one month from today.

(2) The appellate authority shall consider and decide the appeal in accordance with law within a period of sixty days thereafter.

(3) The appellate authority, while doing so, shall not be influenced or shall not even take note off or consider any observation or any findings recorded in the order passed on



13.7.2012 in CWJC No. 9918 of 1997 treating that no such order has been passed in the writ petition shall dispose of the appeal on merit on the basis of the materials available before the appellate authority ignoring the entire order impugned in this appeal.

With the aforesaid observation, the appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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