

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1428 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 2323 of 2015
Along with
Interlocutory Application No. 6294 of 2015**

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1. Dipesh Kumar, Son of Shrideo Kumar Singh, Road No. 6B, Block No.- 1, Flat No.- 1, P.S.- Gardanibagh, Patna
 2. Shishir Kumar, son of Late Yasoda Nand Singh, R/o Vill+ Post- Larua Vaya-Halai Hatt, P.S.- Tajpur, District- Samastipur

.... Appellants

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Bihar Legislative Council Secretariat, Bihar, Patna through Secretary, Bihar Vidhan Parishad, Patna.
3. The Secretary, Bihar Legislative Council Secretariat, Bihar, Patna
4. The Acting Chairman, Bihar Vidhan Parishad, Patna
5. The Acting Secretary, Bihar Vidhan Parishad, Patna
6. The Deputy Secretary, Bihar Vidhan Parishad, Patna

.... Respondents

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Appearance:

For the Appellant/s : Mr. Dinu Kumar, Advocate.
Mr. Deepak Kumar, Advocate.
Mrs. Ritika Rani, Advocate.

For the State : Mr. Chittranjan Sinha, PAAG-2.
Mrs. Ratna Kumari, AC to PAAG-2.

For the Vidhan Parishad : Mr. Kaushal Kumar Jha, Advocate.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 12-01-2017

Re.: I.A. No. 6294 of 2015

This application is for condonation of delay of 3 days
in filing the Letters Patent Appeal.

For the reasons mentioned in the Interlocutory
application, we are satisfied that the appellants have shown sufficient



cause to seek condonation of delay in filing the present Letters Patent Appeal.

Consequently, Interlocutory Application is allowed and delay in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 1428 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 06th of February, 2015 in CWJC No. 2323 of 2015 whereby, the cancellation of selection of the appellant in the cadre of Lower Division Clerk for appointment in the Bihar Legislative Council was not interfered with.

2. The learned Single Bench dismissed the writ application relying upon an order dated 09.11.2010 passed in CWJC No. 10750 of 2006 in respect of the recruitment process in question. The such order stands affirmed in L.P.A. No. 150 of 2012 (Rajesh Ranjan Kishore & Ors. Vs. the State of Bihar & Ors.) decided on 02.04.2012. The said Division Bench has, inter alia, noticed the illegalities in the selection process which led the competent authority to cancel the entire selection process.

3. Leaned counsel for the appellants argued that instead of cancelling the entire selection process on the basis of illegalities noticed by the Division Bench, the individual case of all the candidates needs to be examined.



4. We do not find that such an argument has any merit.

The illegalities noticed by the Division Bench are fundamental to the Selection process, inasmuch as, 38 appointments were made against 11 vacancies advertised; the candidates were not given the test for determining the proficiency in Hindi typing; reservation was not made for Class-IV employees, etc.

5. Since the illegalities were fundamental to the selection process, the entire selection process has been rightly cancelled by the leaned Single Bench in an earlier writ application and such order was not interfered in Rajesh Ranjan Kishore’s Case (supra). We are bound by the earlier decision as well.

6. Thus for the reasons recorded in Rajesh Ranjan Kishore’s Case (supra), the present Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

Mishra/-

(Dinesh Kumar Singh, J)

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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