

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.464 of 2017

1. The State of Bihar through the Director General of Police, Patna.
2. The Director General of Police (Vigilance), Patna.
3. The Inspector General of Police, Patna Zone.
4. The Dy. Inspector General of Police, Magadh Range, Gaya.
5. The Superintendent of Police, District - Aurangabad.
6. Shri Sanjay Kumar, Ex - SDPO (Sadar) Aurangabad, presently posted as Dy. S.P. Motihari (Proceeding Officer).

... .. Petitioner/s

Versus

Ajay Kumar Sinha. Son of Late Anand Mohan Prasad Sub Inspector of Police (Dismissed) Resident of Mohalla - Subhash Colony, Chandmari, Motihari (East Champaran) P.S. Town, District - Motihari.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mr. P.K. Verma, AAG-3
		Mr. Ashish Kumar Lal, Adv.
For the Respondent/s	:	Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-12-2017

This review application has been filed for recall of an order passed by us on 19.9.2017. While dismissing L.P.A. No.409 of 2017, when the L.P.A. came up for hearing, this Court instead of going into the merits of the matter, was annoyed with the manner in which the L.P.A. was filed as it was found from the pleadings



available on record that the L.P.A. was filed by an officer without seeking proper approval and concurrence of the State Government. When this fact came to the notice of this Court, learned counsel appearing for the State Government at that point of time was unable to satisfy us that the L.P.A. was filed after due concurrence and approval of the State Government and the learned counsel appearing for the State Government, faced with the situation of being unable to satisfy us, withdrew the appeal. Subsequently, we were informed that the L.P.A. was filed after obtaining due concurrence and approval of the State Government and as the Court was not apprised of the correct position, an error has occurred in disposal of the L.P.A. based on wrong facts. To verify the aforesaid position, we had requested learned Additional Advocate General-3, Shri P.K. Verma, to produce before us the entire original records pertaining to concurrence and approval granted for filing of the L.P.A. and we find from the original file that after the orders were passed by the learned Writ Court, on 3.5.2016 in C.W.J.C. No.17923 of 2013 and when the certified copy of the order was forwarded to the Department concerned, by the office of the Advocate General, the Home Department on 16th of December, 2016 initiated process for appreciating the claim and on 21st of December, 2016, the Secretary of the Department gave



an opinion that the matter should be examined by the concerned Department, including the Law Department, and a decision taken for filing of an appeal against the order. This was approved by the Principal Secretary of the Department and on 25.10.2016, the matter was placed before the Law Department. The Law Department gave its opinion on 27.12.2026 and recommended for filing of an L.P.A. and thereafter the matter was approved by the Department concerned and on 27.12.2016 itself it was sent to the learned Advocate General who approved filing of the L.P.A. on 28.1.2017.

From the aforesaid material available on the original records, it is seen that the L.P.A. was filed after due concurrence and approval of the competent authority of the State Government and in withdrawing the L.P.A. on account of observations made by this Court, the learned advocate representing the State Government on 19.9.2017 committed an error and was handicapped in placing the correct fact before this Court.

In view of the above, interest of justice requires recall of the order and disposal of the L.P.A. on merit.

Accordingly, we allow this application, recall the order passed in L.P.A. No.409 of 2017 and the L.P.A. is directed



for listing before the appropriate Bench immediately after the
vacation for disposal on merit on 16th of January, 2018.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.12.2017
Transmission Date	

