

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.298 of 2018
IN
Civil Writ Jurisdiction Case No. 4177 of 2016**

=====

Bharat Yadav S/o Shri Raghunath Yadav Resident of village + PO- Rampur Ke
Tola Anchal Siwan, P.S.- M.H. Nagar, Hasanpura, District- Siwan, Bihar

.... Appellant

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary cum the Director, Consolidation land Revenue Department, Govt. of Bihar, Old Secretariat, Patna
3. The Joint Director, Consolidation Bihar, Patna
4. The Deputy Director Bihar Survey Officer, Guljarbagh, Patna
5. The Anudeshak Directorate of Consolidation Budh Marg, Patna
6. The Incharge Assistant Director, Rohtas cum Anudeshak cum Chairman, Practical Knowledge Enquiry Committee, the Directorate of Consolidation Land Revenue Department IVth Floor LDB Budha Marg, Patna
7. The Circle Officer, Anchal Siwan, Siwan
8. The Dealing Assistant Directorate of Consolidation Budh Marg, Patna

.... Respondents

=====

Appearance :

For the Appellant : Mr. Shri Prakash Srivastava, Advocate
Ms. Anu Priyadarshni, Advocate
Ms. Rinki Kumari, Advocate
For the Respondents : Mr. Md. Khurshid alam- AAG12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 16-07-2018

Seeking exception to an order passed on
06.02.2018 in C.W.J.C. No. 4177/2016 this appeal has been filed
under Clause 10 of the Letters Patent. The matter pertains to
appointment on the post of Amin. The advertisement for
appointment was issued in the year 2012 and the petitioner's
candidature having been rejected. The writ petition in question



was filed on 26.02.2014 after the selection process was completed and the appointments were made in November 2014. The writ court had dismissed the writ petition primarily on the ground that with regard to appointment made in the year 2014 the writ petition filed in the year 2016 and in the year 2018 when the matter came up, indulgence cannot be made.

Learned counsel for the petitioner vehemently argued that in dismissing the writ petition on such consideration the learned writ court has committed an error. It was argued by him that in the provisional select list that was published, as is evident from Annexure-4, the name of the petitioner appeared but all of a sudden his name was deleted from provisional select list and vide communication dated 20th November 2014, Annexure-7, he was informed that he cannot be considered for appointment because in the list forwarded by the competent authority, namely, the Deputy Director, Consolidation, the name of the petitioner was not included and the experience certificate also produced by the petitioner was not in accordance with the requirement of the advertisement. Learned counsel tried to emphasize that after examining all aspects of the matter and in the provisional select list Annexure-4 the petitioner's name appeared.



We find that the learned writ court has said that refused to interfere with the matter only on account of the delay in filing the writ petition and we find no reason to interfere with matter. The advertisement was issued in the year 2012 and the petitioner's candidature was rejected on 20th of November 2014 and the final appointments were made on 24.11.2014. The petitioner, from 20th November 2014 up to 20th February 2016 failed to approaching this court, resulted in various candidates being appointed and rights accrued to such candidatures, merely because the petitioner after two years felt that he has been illegally dealt with that does not give a right to the petitioner to insist upon invoking the discretionary jurisdiction of this court. The court under Article 226 of the constitution is a court of equity also and while dealing with the matter we are required to consider the cases of persons who are not before us. In this case right from 20th November 2014 till filing of writ petition on 26.02.2016, i.e., for a period of two years, the petitioner slept over the matter, as a consequence thereof, many persons were appointed in the year 2014, acquired vested right for their service with the government and now in case indulgence is to be made the right of some of the candidates who are appointed would be adversely affected and therefore in dismissing the writ petition



on such equity consideration, in our considered view, the learned writ court has not committed any error in dismissing the writ petition.

Accordingly, this appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.07.2018
Transmission Date	

