

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4212 of 2016

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Ashok Kumar son of Late Ram Nandan Lal resident of Mohalla - Sheikh Toli,
Ward No. 25, P.S. - Town, District - Samastipur.

.... Petitioner

Versus

1. The State of Bihar.
2. The Secretary, Department of Rural Development, Bihar, Patna.
3. The Director, Panchayat Raj, Government of Bihar, Patna.
4. The District Magistrate, Samastipur.
5. The Sub-Divisional Magistrate, Samastipur Sub-Division, Samastipur.
6. The Block Development Officer-cum-Nodal Officer, Warishnagar Block, Samastipur.
7. The Panchayat Raj Officer, Samastipur.
8. Baleshwar Singh son of Late Tapeswar Singh resident of Village - Chandanpur, P.S. - Kalyanpur, District - Samastipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund, Adv.

For the Respondent/s : Mr. Jay Prakash Sharma, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-02-2018

Heard Mr. Anil Kumar Mukund, learned counsel for the
petitioner and the learned counsel for the State.

The petitioner is aggrieved by the appointment of private
respondent to the post of Nyay Mitra.

It is not in dispute that the appointment took place way back
in the year 2008 and was questioned by the petitioner in C.W.J.C.No.
4297/2009 but since none appeared on behalf of the petitioner to press
the writ petition, it was dismissed for non-prosecution. The petitioner
sat thereafter and has approached this Court after a lapse of almost
seven years to file the present writ petition raising the same issue.

Mr. Mukund, learned counsel appearing for the petitioner, in



his endeavour to explain the delay has submitted that since the post of Nyay Mitra had lost its force and the private respondent was reappointed to the post which has given him the cause of action. He further submits that the petitioner was a better candidate than the private respondent and thus, entitled to the appointment. He further submits that an enquiry had been initiated into the matter but has remained pending.

Learned counsel for the State while agreeing to the submission of Mr. Mukund that the petitioner was higher on the merit list has submitted that the offer of appointment was sent to all the candidates as per merit but was never responded to and it is in these circumstances that the private respondent who did respond, has been appointed. It is further submitted that the appeal so filed by the petitioner has been dismissed.

Mr. Mukund contested this position to submit that the dismissal of the appeal is to the application under the Right to Information Act and nothing to do with the inter-party contest.

I have heard learned counsel for the parties and have perused the records and two aspects of the matter does not persuade this Court to grant indulgence, namely, (a) that the appointment dates back to the year 2008 and (b) even though the writ petition of the petitioner was filed immediately thereafter bearing C.W.J.C.No. 4297/2009 but was dismissed on 22.7.2011 and no steps was taken by the petitioner for



its restoration.

Though Mr. Mukund has attempted to justify the delay by submitting that the post of Nyay Mitra has lost its force in the meantime and that the private respondent has been reappointed but this submission stands demolished by the statement of the respondents at paragraph 13 of the counter affidavit in which it is stated that following the offer made the private respondent appeared on 22.2.2008 and was appointed on the same date through letter No. 4 dated 22.2.2008 following which he is working until today. Meaning thereby, there is no case of reappointment, rather it is a singular appointment which took place on 22.2.2008 which is being sought to be challenged after eight years of appointment and seven years of the dismissal of the earlier writ petition. Whether or not the rejection of the appeal relates to the matter in contest need not be a subject matter of discussion because the delayed challenge to the appointment after having sat back on dismissal of the earlier writ petition even if for non-prosecution, would not persuade this Court to condone the delay.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2018
Transmission Date	NA

