

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 19965 of 2014**

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Vinod Paswan, Son of Late Ram Chandra Paswan, Resident of Village-Uchala,  
P.O. & P.S.-Roshanganj, District-Gaya.

.... .... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. City Superintendent of Police, Gaya.
5. Sub-Divisional Magistrate, Sherghati, District- Gaya.
6. Senior Deputy Collector-cum-Inquiry Officer, Gaya.
7. Station House Officer, Roshanganj Police Station, District-Gaya.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr Jitendra Prasad Singh, Advocate  
For the S t a t e : Mr Anisul Haque, AC to AAG V

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date: 17-07-2018**

Heard learned counsel for the petitioner and the  
respondent-State.

**2** Learned counsel for the petitioner submits that though this Court, under order dated 16.07.2014 passed in CWJC No 3333 of 2014, had allowed four weeks time for presenting the appeal before the Appellate Authority, due to unavoidable circumstances such as illness of the petitioner, the same could not be done within four weeks. Instead of presenting the appeal on 16.08.2014, the same has been filed on 28.08.2014 that is nearly about 12 days after the time



fixed by this Court in the earlier order.

**3** This Court would find from the order dated 16.07.2014 that the same was in the nature of consent order inasmuch as the petitioner was relegated to the remedy of appeal as it was the common case of the parties that the order, which was impugned in the writ petition, was an appealable order. The petitioner's right to the remedy of appeal is a substantial remedy and the same has merely been reiterated by this Court in the order dated 16.07.2014. Even otherwise, the competent authority, exercising powers under the Bihar CCA Rules, has the power under Rule 25, for good and sufficient reason or if sufficient cause is shown, to extend the time limit specified in the Rules.

**4** In the aforesaid circumstance, refusal to exercise the appellate jurisdiction by the authority, appears to be a hyper technical approach. In the order dated 16.07.2014 passed in CWJC No 3333 of 2014, there was no stipulation that if the appeal was not filed in the aforesaid period, the authorities will not consider the same.

**5** This Court is of the opinion that in view of the scheme of the Bihar CCA Rules, the stand taken by the respondents in CWJC No 3333 of 2014 and in order to meet the ends of justice, the Appellate Authority may consider the petitioner's appeal and dispose of the same by a reasoned and speaking order. While doing so, the



order dated 31.10.2014 issued by the Divisional Commissioner, Magadh Division in Service Appeal No 268 of 2014 shall not stand in the way of the Authority.

6 Writ petition is disposed of.

(Madhuresh Prasad, J)

**M.E.H./-**

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