

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1267 of 2016

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Sumitra Devi, W/o – Devi Lal Mistry, r/o – village Sohenpur, Block Manpur, P.S. Muffasil, Dist. Gaya.

.... Appellant

Versus

1. The State of Bihar through the District Magistrate, Gaya.
2. The District Magistrate, Gaya cum the Chairman, Lodging House Committee, Gaya.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Ray Saurabh Nath, Adv.

For the Respondent/s : Ms. Shilpa Singh, GA 12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 30-08-2018

Re: I.A. No. 4839 of 2016

This interlocutory application is filed for condonation of delay of 153 days in filing the appeal.

We have heard Mr. Ray Saurabh Nath, learned Counsel for the appellant on the prayer for condonation of delay which is opposed by Ms. Shilpa Singh, learned GA 12.

Having considered the rival submissions and the pleadings on records of the condonation application, we are satisfied by the explanation to condone the delay of 153 days, which is accordingly condoned.

I.A. No. 4839 of 2016 is allowed.



Re: L.P.A. No. 1267 of 2016

We have heard learned Counsel for the parties on the appeal.

This intra-Court appeal arises from the judgment and order of the learned Single Judge dated 18.08.2015 passed in CWJC No. 12464/2015, whereby the writ petition has been dismissed.

The pleadings on record of the writ proceedings would reflect that the petitioner was appointed by the District Magistrate, Gaya in capacity of Chairman, Samwad Sadan Samiti, Gaya vide memo dated 30.11.1993 on daily wages. She continued on this post and in the meanwhile also approached this Court for appropriate direction on her continuation through CWJC No. 12045/2003. However, learned Single Judge taking note of the fact that the name of the petitioner did not find place in the merit panel for regularization allowed her to apply against any advertisement made in future but gave no other relief. The petitioner continued in the Samiti on daily wages. A Public Interest Litigation came up for consideration before the Division Bench of this Court presided by Hon'ble the Chief Justice arising from CWJC No. 16187/2012, in which an issue of levy of service fee was raised by the local residents of Gaya. The Division Bench while allowing the writ petition issued a number of directions to the respondent authorities at Gaya which inter alia also included a direction for appointment of a Committee under section 22 of the



Bihar Hindu Religious Trust Act, 1950 for monitoring various activities for and on behalf of the Board at Gaya. The Committee was vested with other responsibilities. This order was passed on 11.03.2015 and it is in compliance of the directions so present in the order of the Division Bench which has led to winding up of the Samwad Sadan Samiti and consequently the services of the daily wagers have been dismissed. This order bearing memo no. 52 dated 07.04.2015 impugned at Annexure-8 was put to challenge before the writ Court. Learned Single Judge taking note of the circumstances where the establishment itself had been wound up, found no infirmity in the termination order. Felling aggrieved the writ petitioner as the appellant is before this Court when the parties have been heard.

Though it is the argument of Mr. Nath, learned Counsel for the appellant that the committee is yet functional and thus, there lay no occasion for the District authorities including the District Magistrate, Gaya to interfere with the services of the petitioner but this submission is being contested by Ms. Shilpa Singh, learned GA 12 who submits that the winding up of the Samwad Sadan Committee is present in the order of termination and thus the submission made is not correct. We also note from the directions issued by the Division Bench in the Public Interest Litigation that it directed for constitution of a statutory Committee for regulating and monitoring the activities



of the religious places situated in the township of Gaya. The order casts obligation on the State Government in togetherness with the authorities of the Religious Trust Board to constitute a Committee. According to Mr. Nath, this Committee has not been constituted in terms of the direction and thus the appellant-petitioner should have been allowed to continue on her post but such submission is only taken for rejection because in the nature of the direction passed by the Division Bench present at clause 3, there was no other option available with the District Magistrate, Gaya but to wind up the Samwad Sadan Samiti because thereafter a fresh Committee had to be constituted in togetherness with the authorities of the Bihar Hindu Religious Trust Board. If this Committee has not been constituted within the time frame given by the Division Bench in the Public Interest Litigation, the remedy for the petitioner would lie in a different forum but in so far as the present case is concerned, the termination of the service of the petitioner is well explained.

No cause for indulgence is made out in the circumstances noted above save and except that in case any such Committee is constituted by the authorities in compliance of the judgment passed by the Division Bench in the Public Interest Litigation, the appellant-petitioner would be at liberty to apply and since the appellant-petitioner has served the earlier Samiti, the concerned authority would



consider her application as and when an exercise of appointment is taken up.

With the observations above, the appeal is dismissed.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Archana/Surendra

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