

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.44 of 2017

In

Civil Writ Jurisdiction Case No. 18378 of 2014

- =====
1. The State Of Bihar.
 2. The Commissioner-cum- Secretary, Public Health Engineering Department, Government of Bihar, Patna.
 3. The Engineer-in-Chief Cum Special Secretary Public Health Engineering Department, Government of Bihar, Patna.
 4. The Chief Engineer (Mechanical), Public Health Engineering Department, Bihar, Patna.
 5. The Superintending Engineer, Public Health Engineering Department
 6. The Executive Engineer, Public Health Division, Samastipur.
 7. The Assistant Engineer, Public Health Sub-Division, Samastipur.

.... Appellants

Versus

Mosmat Raushan Ara, Resident of Mohalla- Dharampur Ward No. 1, P.S.- Samastipur, District- Samastipur.

.... Respondent

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Appearance :

For the Appellant/s : Mr. Aditi Hansaria, Adv.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

6 25-07-2018

Re: I.A. No. 124 of 2017

Heard Mr. Anil Kumar Sinha, learned GA 1 in support of the limitation petition arising from I.A. No. 124/2017.

This application under section 5 of Limitation Act has been filed for condonation of delay in filing the appeal, which is one year and seven days and the reasons assigned in paragraph 4 onward of the limitation application shifts the onus on the



conducting Counsel in according his opinion in filing of the appeal.

The limitation petition however nowhere explains, when the file was put up before the conducting Counsel to give his opinion and if in case an opinion was given in July, 2016 for filing of an appeal, how the matter has got delayed for another six months when the appeal was filed in January, 2017. We are certainly not satisfied by the luxurious manner in which the State has addressed itself to pursue the litigation.

Even otherwise, there is nothing in the order of the learned Single Judge put to challenge, which adjudicates any issue rather a perusal of the judgment and order of the learned Single Judge passed in C.W.J.C No. 8378/2014 would confirm that it is taking note of the stand taken by the State in the second supplementary counter affidavit, whereby the Court was intimated that the sanction letter has been sent to the Accountant General for authorization of the final pension and gratuity of the petitioner, that the writ petition was disposed of.

Paragraph 15 of the appeal further confirms that it is the stand of the State in the supplementary counter affidavit that the sanction order would be subject to the outcome of the Civil Review Application filed in a connected matter which also got



dismissed on 16.02.2016.

In the circumstances so discussed and in the nature of the disposal put to challenge, we are neither satisfied that the order impugned would constitute a judgment nor it affords any cause of action for maintaining an intra-Court appeal, even otherwise, the luxurious manner in which the State has pursued its cause, does not satisfy us to condone the delay of more than a year.

In result, I.A. No. 124/2017 is rejected and consequently Letters Patent Appeal is dismissed.

I.A. No. 120/2017 is disposed of.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Archana/Surendra

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