

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1060 of 2017
IN
Civil Writ Jurisdiction Case No. 8761 of 2014**

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1. Awadheshwar Jha, son of Late Kuldeo Jha, resident of Village- Morwadih, Post- Morwa, District- Samastipur.
 2. Kapildeo Pathak, son of Late Ram Vilash Pathak, resident of Village- Jogni Ganga, Post- Bariyarpur, District- Muzaffarpur.
 3. Gajendra Pathak, son of Late Jata Pathak, resident of Village- Manik Chowk, Post- Manik Chowk, District- Sitamarhi.
 4. Vishnu Kamat, son of Jagru Kamat, resident of Village- Bhagwanpur, Post- Bhaiyapatti, P.S.- Basopatti, District- Madhubani.
 5. Ram Babu Sah, son of Late Bhalu Sah, resident of Ekbal Hasan Road, Somarpatti, Post- Brahmapura, District- Muzaffarpur
 6. Ajay Kumar Mishra, son of Late Maheshwar Mishra, resident of Late Maheshwar Mishra, resident of Club Road, P.O.- Ramana, District- Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
3. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
4. The Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
5. Lalit Narayan Mishra College of Business Management, Muzaffarpur through its Secretary.
6. Chairman Lalit Narayan Mishra College Of Business Management, Muzaffarpur.
7. Director, Lalit Narayan Mishra College of Business Management, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abhinav Srivastava, Adv.

For the Respondent nos.5to7 : Mr. Binodanand Mishra, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-07-2018

Re: I.A. No.7511 of 2017

This Interlocutory Application has been filed for
condonation of delay of 276 days in filing of the present appeal.

The present Letters Patent Appeal has been filed for



setting aside the order dated 22.09.2016 passed by the learned Writ Court in Civil Writ Jurisdiction Case No.8761 of 2014. By the impugned order, the learned Writ Court has refused to issue a writ of mandamus against the institution in question which has been found to be an autonomous institute registered as a society and is in the private hands of certain individuals.

Apart from the fact that there is a delay of 276 days in filing of the present appeal and the delay has not been explained by cogent and sufficient grounds and evidences in support thereof, we also find on the merit of the case that before the learned Writ Court the prayer of the petitioner was to issue a direction to the concerned respondent authorities under Lalit Narayan Mishra College of Business Management (hereinafter referred to as the 'College/Institute') to take steps towards fixing the pay scale and extending other benefits including payment of dearness allowances, etc. in favour of the petitioners who are employees of the College in a similar manner as other employees working in the services of B.R. Ambedkar Bihar University, Muzaffarpur are getting.

While assailing the impugned order, learned counsel representing the appellant having appreciated the difficulties submits that the institute is parting with education and, therefore, is performing a duty in larger public interest, hence, this Court may



exercise its extra-ordinary writ jurisdiction by issuing the directions as prayed for.

We are neither satisfied with the reasons shown for condonation of delay nor are we satisfied with the grounds raised by the appellant to throw a challenge to the order of the learned Writ Court. The Institute in question is a private institution getting no financial aid from the State Government and has been granted autonomy in terms of the provisions contained in Section 73 of the Bihar State Universities Act, 1976. No question of law is involved.

In our considered view, the nature of the reliefs prayed in the writ application are such that the learned Writ Court has rightly taken a view that no mandamus can be issued to the institute in question.

In our considered opinion, the learned Writ Court has committed no error. The Letters Patent Appeal has no merit. It is dismissed accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	NAFR
CAV DATE	N/A
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