

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.150 of 2018

In
Civil Writ Jurisdiction Case No.9508 of 2014

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1. Mira Devi, Wife of Late Sidheshwar Prasad, Resident of Mohalla- Station Road, Bazar, Barh, Ward No. 14, P.O. & P.S.- Barh, District- Patna.
 2. Niranjana Kumar, Son of Late Sidheshwar Prasad, Resident of Mohalla- Station Road, Bazar, Barh, Ward No. 14, P.O. & P.S.- Barh, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Secretary, Public Relation Department, Old Secretariat Building, Patna.
2. The Principal Secretary, Public Relation Department, Old Secretariat Building, Patna.
3. The Director Public Relation Department, Old Secretariat Building, Patna.
4. Manoranjan Kumar Sinha, Son of Late Sidheshwar Prasad, Resident of Mohalla- Station Road, Bazar, Barh, Ward No. 14, P.O. & P.S.- Barh, District- Patna.
5. Madhuri Kumari @ Madhuri Bahadur, Wife of Shree Rai Anand Mohan Bahadur, Resident of Mohalla- Anupana Niwas Behind Sonu Market, Ram Jaipalnagar, Gola Road, Bailey Road, P.S.- Rupaspur, District- Patna.
6. Snehlata Sinha, Wife of Late Shri Arun Kumar Sinha, Resident of Mohalla- Behind by pass, Central School, New Jaganpura, near Jagat Market, P.S.- Kankerbagh, District- Patna.
7. Deepa Sinha, Wife of Shree Binod Kumar Sinha, Resident of Mohalla- Bakerganj, Daldali Road, Jung Bahadur Niwas, Rampiyar Kunwar Hall, Biscuit Factory, P.S.- Gandhi Maidan, District- Patna.
8. Kiran Kumari, Wife of Rajesh Ranjan Sahay, Resident of Sahay Sadan, Lakhmi Bigha, Khagaul, P.S.- Danapur, District- Patna.

... .. Respondent/s



Appearance :

For the Appellant/s : Mr. Ardhendumauli Kumar Prasad, Advocate
Mr. Shashi Shekhar Kumar Prasad
For the Respondent/s : Mr. Gyan Prakash Ojha- GA 7

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT**

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-07-2018

Delay of 42 days in filing of the appeal is condoned and
I.A. No.773 of 2018 is allowed and disposed of.

We have considered the rival contentions and heard learned counsel for the parties. From the facts that have come on record, we find that the petitioner's husband was working in the Public Relation Department and claiming promotion on the post of Assistant District Public Relation Officer, w.e.f. 1973, the petitioner earlier approached this Court by filing a writ petition being C.W.J.C. No.16746 of 2008 and on the ground of inordinate delay, more than 20 years, and laches in filing of the writ petition the writ petition was dismissed by the learned Writ Court. Aggrieved by the same, petitioner preferred L.P.A. No.1488 of 2010 before this Court and on 7.7.2011 the Division Bench disposed of the L.P.A. in the following manner:



“Upon hearing learned counsel for the appellants, we direct the appellants to file representation before the concerned department, which shall be considered and decided within a period of one month and if the application is rejected the order shall be judicious order and even if thereafter the appellant will have any grievance he may approach to the appropriate forum.

Accordingly, the petition is disposed of.”

From the aforesaid, it is clear that even though the learned Writ Court refused to interfere into the matter on account of delay and laches, the Division Bench thought it appropriate to direct the competent authority to decide the representation and thereafter, in case the representation is not decided or rejected within month, the appellant in the appeal, namely the present petitioner, was granted liberty to ventilate her grievance by approaching the competent authority. When the representation was not decided within one month, the petitioner filed a contempt application being M.J.C.No.4474 of 2012 and in the contempt application on 25.10.2013, a Division Bench found that as the direction for deciding the representation is not issued to any particular or specific officer by designation or name, contempt action cannot be issued and disposed of the matter. As the representation still remained unanswered and after the contempt



application was disposed of, petitioner had no option but to approach this Court through a fresh writ petition. C.W.J.C. No.9508 of 2014 was filed only seeking a mandamus in the light of the order dated 7.7.2011 passed in L.P.A. No.1488 of 2010. This writ petition has been dismissed again taking note of the delay.

In our considered view, once on 7.7.2011 a Division Bench of this Court in L.P.A. No.1488 of 2010 had passed the order, as is reproduced hereinabove, the learned Writ Court committed an error in again dismissing the writ petition on the ground of delay. Earlier also the writ petition was dismissed by the learned Writ Court on the ground of delay i.e. C.W.J.C. No.16746 of 2008, and the order passed therein stood annulled and superseded by the order passed on 7.7.2011 in L.P.A. No.1488 of 2010 and once the order dated 7.7.2011 passed by the Division Bench had attained finality having not been challenged by the State Government or any other party, the authorities of the State Government had no other option but to decide the representation as directed on 7.7.2011 and as contempt action could not be taken, in all fairness, the learned Writ Court should have allowed the prayer made in the writ petition.



From the facts that have come on record, we find that after the contempt application was disposed of on 25.10.2013, within a reasonable period of one year on 12.6.2014, the present writ petition being C.W.J.C. No.9508 of 2014 was filed.

That being so, we see no reason to reject the prayer of the petitioner made for a direction to consider and decide the representation.

We are conscious of the fact that there may be inordinate delay in seeking the aforesaid benefit, but once the order passed on 7.7.2011 in L.P.A. No.1488 of 2010 has attained finality, the relief granted to the petitioner by the aforesaid order has to be crystallized and given effect to and the same cannot be rejected now on a ground which was already deemed to have been considered and rejected on 7.7.2011.

Accordingly, we allow this appeal, quash the order passed by the learned Writ Court and direct respondent Nos.2 and 3, Secretary Public Relation Department and the Director, Public Relation Department, to consider and decide the representation of the petitioner in accordance with within a period of 30 days from the date of receipt/production of a copy of this order.

Needless to emphasize that we have not expressed any opinion on the merits of the claim and it is for the competent



authority to take a decision on the representation in accordance with law.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

