

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.175 of 2018

In
Letters Patent Appeal No.987 of 2015

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Rajeswar Prasad, S/o Late Vishwanath Prasad, Resident of village- Areraj,
P.S.- Govindganj, District- East Champaran (Bihar).

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Public Health Engineering Department, Nirman Bhawan, (Bishwasaraya Bhawan) Campus, Bailey Road, Patna.
2. The Special Secretary, Public Health Engineering Department, Nirman Bhawan, (Bishwasaraya Bhawan) Campus, Bailey Road, Patna.
3. The Additional Secretary, Public Health Engineering Department, Nirman Bhawan, (Bishwasaraya Bhawan) Campus, Bailey Road, Patna.
4. The Joint Secretary, Public Health Engineering Department, Nirman Bhawan (Bishwasaraya Bhawan) Campus, Bailey Road, Patna.
5. Shiv Nandan Prasad Choudhary, Son of- name not know to the petitioner, Executive Engineer (waiting for posting), C/0 Engineer-in-chief-cum-Special Secretary, P.H.E.D. Bihar, Bishwasaraya Bhawan, Patna-15.
6. Devavrata Chatterjee, Son of-name not know to the petitioner, Executive Engineer, office of Engineer-in-Chief-cum-Special Secretary, P.H.E.D. Bihar, Bishwasaraya Bhawan, Patna.
7. Udhav Ji, son of-name not know to the petitioner, in-charge Superintending Engineer, P.H.E.D. Circle, Gaya.
8. N.P.N. Singh, son of- name not know to the petitioner, Executive Engineer P.H. Division, Saraikela, District- Chaibasa.
9. K.N.Gupta, son of- name not know to the petitioner, Executive Engineer P.H. Division, Jamui, District- Jamui.
10. A.N.P. Singh, son of- name not know to the petitioner, Executive Engineer P.H. Division, Gaya.
11. K. Nath, son of- name not know to the petitioner, Executive Engineer P.H. Division, Dalgaonganj.
12. S.A. Khan, son of- name not know to the petitioner, Executive Engineer P.H. Division, Jehanabad.



13. N.C. Mishra, son of- Harish Chandra Mishra, Executive Engineer Vigilance Technical Cell, Bihar, Old Secretariat, Patna.

14. Madan Kumar, son of- name not know to the petitioner, Executive Engineer Monitoring, C/o Engineer-in-Chief-cum-Special Secretary, P.H.E.D. Bihar, Bishwasaraya Bhawan, Patna-15.

15. Smt. Bharti Jha, W/o Late Indra Narayan Jha, C/o Prabhakar Jha, SE, Quarter No. C/6, Road No. 04, P.T.P.S. Patratu, District- Ramgarh, Jharkhand.

16. Om Prakash, son of- name not know to the petitioner, Executive Engineer P.H. Division, District- Garhwa.

17. B.K. Sinah, son of- name not know to the petitioner, Executive Engineer P.H. Division, Biharsharif.

18. Smt. Aruna Devi, W/o late Murari Prasad, 354/421, Anugrah Puri Colony, Gaya.

19. Mr. Shambhu

20. Mr. Binay Kumar, both son of Late Basudeo Sinha, Both resident of Jyotipuram Colony, Ambedkar Path, Patna-800014.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amit Shrivastava, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 19-12-2018

Heard Mr. Amit Shrivastava, learned counsel for
the review petitioner.

This application is filed for review of the order
dated 08.05.2018 passed in L.P.A. No. 987 of 2015 whereby the
Division Bench dismissed the interlocutory application filed for
condonation of delay of four years and 28 days, inter alia, for



the reasons that explanation advanced by the appellant seeking condonation of delay was not sufficient enough to satisfy the Bench.

Since interlocutory application for condonation of delay was dismissed, the Letters Patent Appeal was also dismissed.

Mr. Amit Shrivastava, learned counsel appearing for the petitioner has referred to a Full Bench decision of this Court reported in **2015 (4) PLJR 328 (High Court of Judicature at Patna Vs. Sri. K. K. Chaubay & Anr.)**, more particularly paragraph-12 to 16 to canvass that a power of review can well be exercised for preventing miscarriage of justice or remove and correct grave and palpable errors.

There is absolutely no dispute on the principles so advanced by Mr. Shrivastava save and except that the principles have to be applied and tested against each case on its applicability. In so far as the present review is concerned, it seeks to review of the opinion expressed by the Bench on the reasons assigned by the review petitioner for condonation of delay and the Division Bench on going through the pleadings made in the interlocutory application was not satisfied to order for its condonation.



In such view of the matter, any exercise of review jurisdiction would amount to sitting in appeal over an order and would not be in the nature of correction of an error. If the reasons assigned by the appellant-review petitioner in his interlocutory application accompanying the Letters Patent Appeal was not persuasive enough to the Bench for inviting an order of condonation of delay, any other opinion by this Court while exercising review jurisdiction, would amount to substitution of the opinion expressed earlier on the Letters Patent Appeal. We are fortified in our opinion by the expression of the Full Bench as found in para-20 of the judgment so relied upon by Mr. Shrivastava which runs under:-

“20. It follows, therefore, that the power of review can be exercised for correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. A review cannot be treated as an appeal in disguise. The mere possibility of two views on the subject is not a ground for review. Once a review petition is dismissed, no further petition for review can be entertained.”

For the reasons discussed above, we are not



persuaded to exercise the power of review jurisdiction. The petitioner has his remedy before the appropriate forum and if so advised, he can take recourse thereto.

The civil review application is, accordingly, dismissed.

(Jyoti Saran, J)

(Nilu Agrawal, J)

devendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.01.2019
Transmission Date	NA

