

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.263 of 2019

In
Civil Writ Jurisdiction Case No.12295 of 2016

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Nageshwra Kumar aged about 53 years (M), S/o Late Fakira Das resident of Village- Kushahar Khas, Police Station- Mahua, District- Vaishali, at Present Posted and working as Block Education Officer, Nautan, District-Siwan

... .. Appellant

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna
 2. The Director, Primary Education, Bihar, Patna
 3. The Regional Deputy Director of education, Saran Division, Chapra
 4. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga
 5. The Regional Deputy Director of Education, Munger Division, Munger
 6. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur
 7. The District Education Officer, District-Darbhangha
 8. The District Education Officer, District-Lakhisarai
 9. The District Education Officer East Champaran Motihari
 10. The District Education Officer, Siwan
 11. The District Education Officer, Khagaria
 12. The District Education Officer, Nalanda at Bihar Sharif
 13. The District Education Officer, Katihar
 14. The District Programme Officer (Establishment), Darbhanga
 15. The District Programme Officer (Establishment), Lakhisarai
 16. The District Programme Officer (Establishment), East Champaran, Motihari
 17. The District Programme Officer (Establishment), Siwan
 18. Vijay Kumar Paswan Headmaster, Govt. Basic School Durgapur, Khagaria
 19. Sri Nand Lal Prasad The Headmaster, Govt. Basic School Kornawan, Nalanda
 20. Smt. Reeta Das Govt. Basic School Kolasi, Katihar
 21. Smt. Sudha Kumari, the Headmistress, Govt. Basic School
 22. Shri Prakash Ranjan, the Block Education Officer, Madhuban, East Champaran at Motihari
- Respondent/Respondent 1st Set.**
23. Bimla Maria Lakra W/o Late Serafin Masih Resident of the Leprosy Mission Hospital, Kanhauli, P.S. Mithanpura, Dist.-Muzaffarpur, at present posted and working as Block Education Officer, Banjariya, Dist.-East Champaran (Motihari)



24. Parmanand Mishra S/o Shri Shyam Bihari Mishra Resident of Village- Kasile,P.S. Mail,Dist.-Deoria (Uttar Pradesh),at present posted and working as Block Education Officer Hasanpura,Dist.-Siwan
25. Chhathu Yadav S/o Late Shivlal Yadav Resident of Village- Baghakol, P.S. Babubarhi, Dist.-Madhubani, at present posted and working as Block Education Officer Darbhanga Nagar, Dist.-Darbhanga
26. Deo Sharan Raut S/o Late Ramphal Raut Resident of Village and P.O. Nagwas P.S. Arer, Dist.-Madhubani, at present posted and working as Block Education Officer Sadar-Darbhanga, Dist.-Darbhanga
27. Ramchandra Prasad Vimal S/o Shri Shiv Shabkar Yadav Resident of Village- Maharajganj Ward No. 13, P.S. Madhubani,Dist.-Madhubani ,at present posted and working as Block Education Officer Pipariya,Dist.-Lakhisarai
28. Uttam Prasad S/o Late Shri Das Resident of Village- Musapur,P.O.-Musapur, P.S. Saray Ranjan Ghatano Dist.-Samastipur,at present posted and working as Block Education Officer Benipur,Dist.-Darbhanga

... .. Petitioner/Respondents 1st Set.

Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s	:	A.C. to A.G.
For the Intervenor	:	Mr. Pratap Sharma, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 19-08-2019 Heard learned Senior Counsel along with learned Advocate on Record on behalf of the appellant, learned counsel for the respondents-State and the Intervenor.

Interlocutory Application No. 03 of 2019 has been preferred by the appellant seeking condonation of delay of about two years and five months in preferring the present Letters Patent Appeal. The impugned judgment was passed as back as on 18.08.2016 in CWJC No. 12295/2016 and it's analogous matters.



The only reason for filing the present Letters Patent Appeal is that when a contempt application was preferred, alleging non-compliance of the order passed by the learned writ court the State-respondents came out with a fresh decision whereunder the petitioner has been transferred. The petitioner is in fact aggrieved by the order of transfer, as according to him, the State-respondents were directed to keep in mind Rule 153 of the Bihar Education Code without considering that other Government Circular were also applicable to the petitioner.

In course of hearing of the limitation petition itself, we called upon learned Senior Counsel for the appellant to satisfy us as to why a Letters Patent Appeal be entertained against the judgment of the learned writ court at this stage when a fresh decision has already been taken by the State-respondents in compliance of the judgment of the learned Single Judge and in case the petitioner feels aggrieved by the decision of the State-respondents taken pursuant to the judgment of the learned writ court why instead of assailing the said order of transfer he has chosen to file a Letters Patent Appeal, learned senior counsel representing the appellant submits that he would be satisfied if the appellant be allowed to take all such pleas which are available to him while challenging the order of transfer in a



duly constituted writ application.

Learned counsel for the State-respondents as well as Intervenor have no objection to the petitioner availing his remedy against the order of transfer and taking all such pleas which will be available to him in accordance with law.

In the aforesaid view of the matter, we dispose of the limitation petition as well as the Letters Patent Appeal and other Interlocutory Applications taking note of the aforesaid submissions leaving it open for the petitioner to challenge the order of transfer in an appropriate independent action/application and if such an application is preferred all pleas available to the petitioner shall be taken as open for submission.

(Amreshwar Pratap Sahi, CJ)

(Rajeev Ranjan Prasad, J)

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