

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7158 of 2015

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Gulab Chand Yadav, S/o Late Faguni Yadav, resident of village - Laxmipur,
Tola - Dariyapur, P.S. - Belaganj, District - Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna
2. The Commissioner, Magadh Division, Gaya.
3. The District Officer-Collector, Gaya.
4. The Senior Deputy Collector-cum-Conducting Officer, Gaya.
5. The Sub-Divisional Officer, Sadar, Gaya.
6. The Block Development Officer, Manpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr S S Dwivedi, Sr Advocate with M/s Parth Gaurav, Anshu Raj Singh, Praveer Narayan, Advocates
For the Respondent/s	:	Mr Apurv Harsh, AC to SC XXVIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

4 25-06-2019 Heard learned counsel for the petitioner and the respondent-State.

Specific stand of the petitioner in the writ proceedings is that there was some official direction in the office of the Divisional Commissioner, Magadh Division, Gaya not to accept appeals except when the Commissioner is holding Court. In the circumstances, the learned Senior Counsel appearing for the petitioner submits that on 27.11.2014, after having prepared the appeal, the same could not be filed in the office of the Commissioner in view of the bar imposed for acceptance on



appeals, except on days when the Commissioner was holding Court. The petitioner, therefore, sent the appeal by way of registered post on 27.11.2014 itself to the office of the Commissioner, Magadh Division.

It is not in dispute that on 27.11.2014, the appeal was in time. The issue has arisen because in the aforesaid facts and circumstances, by the time the appeal of the petitioner reached the Court of Commissioner, Magadh Division, the time granted by order dated 11.11.2014 passed in CWJC No 5578 of 2014 earlier filed by the petitioner, has lapsed, and on this ground of delay, appeal has been rejected.

Whether the petitioner was responsible for the delay caused in filing the appeal, is an issue raised by this Court in the earlier order calling upon the respondents to place on record their stand.

Specific averment of the petitioner regarding bar on acceptance of appeal by the Commissioner, and that came in the way of submission of the appeal on 27.11.2014, has also not been denied, though counter affidavit has been filed by the respondents. The respondents have only submitted that the same are matters of record and have put the petitioner to strict proof of the same. Specific averments to this effect has been



made in the counter affidavit filed by respondents No 3 to 6 in paragraph 9 thereof.

Petitioner has acted with due diligence. On refusal to accept his appeal by office of respondent No 2, he has sent the same by post on the same date, i e, on 27.11.2004. Till this date, his appeal was within the time limit of three weeks as per order dated 11.11.2014 passed on his earlier writ petition.

In these circumstances, this Court would observe that interest of justice will be served by considering the petitioner's appeal, which is already before the Commissioner, Magadh Division, Gaya, on its own merits.

In view of the aforesaid facts and circumstances and since the petitioner cannot be held liable for delay of four days in receipt of the appeal in the office of Magadh Division, the writ petition is disposed of with a direction that the appeal be decided on its own merit by a reasoned and speaking order in accordance with law without raising the issue of the same having been filed by delay expeditiously without any undue delay and preferably within eight weeks from the date of receipt/production of a copy of this order.

(Madhuresh Prasad, J)

M.E.H./-

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