

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10495 of 2013

1. Birendra Pratap Singh and Anr. S/O Late Ravindra Narayan Singh
2. Dhirendra Pratap Singh S/o Late Rabindra Pratap Singh, Both resident of Kulhariya House, Ashok Rajpath, Mohalla - Bakarganj, P.O. Bankipur, P.S. - Pirbahore, District - Patna

... .. Petitioner/s

Versus

1. The State of Bihar and Ors
2. The Commissioner, Patna Division, Patna
3. The Collector Patna, Appellate Authority Under Bihar Building Lease, Rent And Eviction Control Act
4. The Commissioner Cum Secretary Human Resources Department Secondary, Govt. Of Bihar, Patna
5. The Director , Secondary Education , Education Department , Govt. Of Bihar, Patna
6. The District Education Officer, Patna P.O. - Bankipur, P.S. - Pirbahore, District - Patna
7. The Principal, B.N Collegiate School, Patna , P.O. - Bankipur, P.S. - Pirbahore, District - Patna
8. Sri Keshave Prasad Singh , Headmaster B.N. Collegiate School, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Neeraj Kumar Gupta
For the Respondent/s : Mr.Rajendra Kr. Jha

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 18-04-2019 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

2. Petitioner is aggrieved by the order passed by Collector in Rent Appeal No. 11 of 1998-99 dated 4.8.2004 whereby the Collector in exercise of appellate power allowed the appeal without condonation of delay in filing the appeal. The petitioner, thereafter, approached this Court in C.W.J.C. No.



15824 of 2004. The aforesaid writ application was disposed of on 28.11.2007 where the Court granted liberty to the petitioner to file revision with application for condonation of delay. The petitioner approached the revisional authority i.e. Commissioner, Patna Division. The Commissioner upheld the decision of the Collector and rejected the revision petition.

3. Manifold submissions have been advanced by, learned counsel for the petitioner, Narmata Mishra but only one question which is relevant for adjudication of the present writ application whether the Appellate Authority has jurisdiction to pass order without condonation of delay. If there was delay in filing the appeal, the Appellate Authority was precluded from exercising jurisdiction unless the delay in filing the appeal is condoned. Admittedly, the Appellate Authority has not condoned the delay in filing the appeal and as such the order of the Collector is nullity and unsustainable.

4. Filing of the revision under the order of the High Court does not cure defect as to the order passed by the Appellate Authority after expiry of period of limitation and as such the Court is not inclined to accept argument of Mr. Vivek Prasad that petitioner has approached this Court and thereafter revisional court and order of revisional court cure defect as to



the filing of appeal belatedly.

5. In the facts and circumstances of the case, the Court is of the view that the order passed by the Commissioner does not cure defect as he has simply perpetuated illegality and as such the order passed by the Collector in appeal is not cured by the order passed by the revisional authority.

6. Accordingly, the orders contained in Annexure-2 and 4, the order passed by the Collector in Appeal and the order passed by the Commissioner in Revision are hereby quashed.

7. The respondents are directed to act in accordance with law on quashing of Annexure-2 and 3.

8. With the aforesaid the present application is allowed and disposed of.

(Anil Kumar Upadhyay, J)

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