

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1470 of 2017

In

Civil Writ Jurisdiction Case No.9144 of 2014

=====

Agamlal Paswan S/o Late Sayam Sunder Paswan, Resident of Village-
Dhaneshri, P.O.- Mangaphar Charia, P.S.- Bhargawan, Distt.- Araria.

... .. Appellant/s

Versus

1. The State Of Bihar through its Principal Secretary, Department of Home(Police), Government of Bihar, Patna
2. The District Magistrate cum Collector Araria District - Araria.
3. The Deputy Collector, In- Charge, District General Section, Araria.
4. The Superintendent of Police, Araria, District - Araria.
5. The Sub-divisional Police Officer of Farbisganj Sub Division, District - Araria.
6. The Sub-Divisional Officer of Farbisganj Sub - Division, District - Araria.
7. The Circle Officer, Bhargawan Circle, District - Araria.
8. Officer In-charge Bhargawan Police Station, District - Araria.
9. Block Development Officer, Bhargawan, Araria.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Md. Helal Ahmad, Advocate
For the Respondent/s : Mr.P.K.Verma -AAG-3
Mr. Suman Kumar Jha, AC to AAG-3

=====

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

and

HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA)**

Date : 05-12-2019

We heard learned counsel appearing for the appellant
as well as learned counsel for the State.

2. This Letters Patent Appeal has been filed against
order dated 15.09.2017 passed by learned Single Judge in



CWJC No. 9144 of 2014 by which and whereunder learned Single Judge dismissed the aforesaid writ petition filed on behalf of appellant.

3. The appellant filed the above-stated CWJC No. 9144 of 2014 for correction of Date of Birth in Service Book on the ground of School Leaving Certificate in which the Date of Birth of the appellant was entered as 19.01.1956, whereas in Service Book the Date of Birth of the appellant was entered as 31.12.1949.

4. The appellant claimed that he was appointed as Chowkidar by the Superintendent of Police Purnea in the year 1982. Subsequently, by letter no. 359 in the year 1990, the State of Bihar granted the Chowkidar the Status of Fourth Class employee of the State of Bihar. Furthermore, appellant claimed that on 04.12.2000, he filed petition alongwith affidavit for correction of his Date of Birth in Service Book. The Block Development Officer and several other officers made enquiry on the petition and affidavit of the appellant and, subsequently, the District Magistrate, Araria on 17.09.2013 directed to correct the Date of Birth of the appellant in Service Book, but subsequently, the Deputy Collector, Araria vide memo no. 228 dated 25.02.2014 cancelled the previous order of District Magistrate,



Araria against which the appellant preferred the aforesaid CWJC No. 9144 of 2014, but learned Single Judge dismissed the writ petition on various grounds including the delay in filing petition for correction of Date of Birth.

5. Learned counsel appearing for appellant submits that Deputy Collector, Araria did not give any opportunity to the appellant to place his case before cancellation of previous order of District Magistrate, Araria, but the learned Single Judge did not take note of the aforesaid fact. He further submits that the learned Single Judge dismissed writ petition on the ground that there was inordinate delay in filing the petition for correction of Date of Birth, but the learned Single Judge failed to take note of this fact that the appellant was granted status of government employee in the year 1990 and within 10 years he filed petition for correction of his Date of Birth in the year 2000 and, even if, Rule 96 of Bihar Finance Rules is taken into consideration, then also, the petition of the appellant was within time. Learned counsel for the appellant drew our attention to its several annexures attached with memo of writ petition filed before the writ court.

6. On the other hand, learned counsel appearing for State refuted the above-stated submissions arguing that the



learned writ court while passing impugned order noticed that the so-called School Leaving Certificate filed on behalf of appellant was not genuine because the concerned Headmaster did not find the said document in his school. He further submits that no doubt, the appellant brought a petition as well as one affidavit on record, but the petition of the appellant does not contain any date though, the affidavit is said to have been filed in the year 2000. He further submits that moreover, the Collector Araria was not a competent authority to pass an order for correction of Date of Birth in Service Book and the writ court noticed that the then Collector, Araria passed order for correction of Date of Birth of the appellant in Service Book only on the basis of medical report as well as School Leaving Certificate, but the School Leaving Certificate was not found genuine and so far as medical report is concerned, there was no provision in Bihar Finance Rules to make correction of Date of Birth in Service Book on the basis of medical report and, therefore, there is nothing, on the basis of which, the appellate court could interfere into the impugned order. In this connection, reliance can be placed on a decision of Apex Court reported in **2010(3) PLJR SC 85** wherein the Hon'ble Supreme Court observed that **unless a clear case on the basis of materials conclusive in**



nature is made out, no direction should be issued on the basis of materials which make such claim plausible only.

7. Having heard the contentions of both the parties, we went through the record along with record of writ court. The perusal of impugned order goes to show that the learned writ court discussed all the aspects of the matter and having taken note of this fact that the School Leaving Certificate filed on behalf of appellant could not be verified, as the concerned Headmaster of the school responded that no documents prior to 1978 were available in his school dismissed the writ petition. Moreover, we also find that the Collector was not a competent authority to make correction in Service Book as per Bihar Finance Rules. Therefore, we do not find any ground to interfere into the impugned order. Accordingly, this appeal stands dismissed on admission stage itself.

(Hemant Kumar Srivastava, J)

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14.12.2019
Transmission Date	

