

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11470 of 2018

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Umesh Paswan Son of Late Aklu Paswan, resident of Village- Lalpur, P.O.-
Raghauli, Police Station- Bisfi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Food and Consumer Protection Department, Bihar, Patna.
2. The Divisional Commissioner, Darbhanga Division, Darbhanga.
3. The Collector, Madhubani.
4. The Sub Divisional Officer, Benipatti, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar
For the Respondent/s : Mr.Arvind Ujjwal- Sc4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 27-07-2019 Heard learned counsel for the petitioner and learned
counsel representing the State.

Petitioner in this case is aggrieved by order dated
21.02.2017 passed in Revision application preferred by the
petitioner before the Commissioner Darbhanga, Division,
Darbhanga.

Learned counsel for the petitioner submits that the
father of the petitioner was pursuing the revision application
before the revisional authority. During pendency of the revision
application he died on 06.12.2015. Whereafter this petitioner
filed substitution application on 10.02.2016 after period of 72
days. The commissioner Darbhanga, Division, Darbhanga has



taken a view that the substitution application filed after 30 days period cannot be accepted. On this ground alone revision has been dismissed.

Counsel for the petitioner submits that the father of this petitioner was brutally murdered and in that circumstance the petitioner was prevented from contacting his lawyer within time to file substitution application. It is only after sometime that he somehow became able to approach the learned counsel to get the substitution application filed.

Learned counsel for the State is present and submits that in such circumstances the petitioner should have explained the delay in filing of the substitution application. However, this being a hard case for the petitioner who has suffered due to murder of his father one opportunity may be granted to the petitioner to pursue his remedy.

In given facts and circumstances of this case, this court being a court of equity as well is of the considered opinion that revision application of the petitioner was not required to be dismissed on the ground of delay in filing of the substitution application and one opportunity of explanation should have been accepted by the Divisional Commissioner. In these circumstances, this Court sets aside the order passed by the



Divisional Commissioner as contained in Annexure-6 to the writ application. Remit the matter back to the Divisional Commissioner, Darbhanga, Division, Darbhanga for a fresh consideration of the substitution application after giving opportunity of hearing to the petitioner to explain the reasons for delay in filing of the substitution application. If required a separate application may be permitted to be filed on behalf of the petitioner to explain the delay.

It is well said that the Court should look for substantial justice instead of rejecting the application on technical grounds.

The writ application is disposed of with the aforesaid observations and directions.

(Rajeev Ranjan Prasad, J)

T.Kr./-Rajeev

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