

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.576 of 2018

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Shanti Devi, Wife of Shri Durga Mahato, Resident of Village-Bara Chatti, P.S. and P.O. Bara Chatti, District Gaya presently residing at Janta Road, Police Station Gardanibagh, town and District Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of SC/ST Welfare, Government of Bihar, Patna
2. The Director, SC/ST Welfare Department, Government of Bihar, Patna.
3. The Under Secretary, SC/ST Welfare Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mrs. Mahasweta Chatterjee, Advocate
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-01-2019

Re: I.A. No. 1 of 2019

Heard Smt. Mahasweta Chatterjee, learned counsel
for the applicant.

2. This application for condoning the delay has been filed today in Court. The appeal is reported to be delayed by 91 days.

3. Keeping in view the cause shown in support of the delay condonation application, we condone the delay in filing the appeal and treat the appeal to be within time.

Re: L.P.A. No. 576 of 2018



The appeal questions the correctness of the impugned order dated 18.12.2017 passed in C.W.J.C. No. 10368 of 2014 of the learned Single Judge, whereby the writ application of the appellant has been consigned giving liberty to the appellant to file a contempt application.

2. The background in which the said order has been passed is that on 9th January, 2014 C.W.J.C. No. 18742 of 2012 filed by the appellant was disposed of with a direction to the Principal Secretary, Department of SC/ST Welfare, Government of Bihar to pass an appropriate order with regard to the claim of regularization of the services of the appellant. In compliance of the aforesaid direction, instead of the Principal Secretary, the Director of the said Department passed an order on 25th of March, 2014 which came to be impugned in the writ petition.

3. The learned Single Judge was of the opinion that if the order has not been passed by the competent authority then this may call for initiation of contempt proceedings.

4. We are of the considered opinion that the passing of the order dated 25th March, 2014 was a fresh cause of action and, therefore, unless the said order is set aside, it may not be possible for the Contempt Court to proceed in the matter for any wilful or deliberate disobedience inasmuch as the order has been



passed on the asking of the Principal Secretary by the Director. The question as to whether the order is correct on merits or not, therefore, being a fresh cause of action was not amenable to the contempt jurisdiction, as observed by the learned Single Judge.

5. We, accordingly, allow the appeal, set aside the order dated 18.12.2017 and restore the writ petition to its original number for being heard and decide on merits by the appropriate Bench.

6. The appeal stands allowed accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

AFR/NAFR	
CAV DATE	
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