

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.608 of 2018

In

Civil Writ Jurisdiction Case No.11835 of 2013

Shobha Kumari, Wife of Nawal Kishore Gupta, resident of Sarai Barar, Police Station - Sarai, District - Purnea.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Secretary, Department of Social Welfare, Govt. of Bihar, Old Secretariat, Patna.
3. The Director, Integrated Child Development Scheme, Indira Bhawan, East Boring Road, Patna.
4. The Divisional Commissioner, Purnea Division, Purnea.
5. The District Magistrate, Purnea.
6. The District Programme Officer, Purnea, Distt. Purnea.
7. The Child Development Project Officer, Banmankhi.
8. Nisha Kumari Wife of Sri Rajesh Kumar resident of Sarsi Barar, Panchayat - Mahgya Pramraj, Police Station - Sarsi Banmankhi, District - Purnea.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.N.K. Agrawal, Sr. Advocate
For the State	:	Mr. G.P. Ojha, G.A. 7
For Respondent No. 8	:	Mr. Dilip Kumar Tiwari, Advocate Mr. Amit Kumar Anand, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-04-2019

Re: I.A. No. 5554 of 2018

Heard Shri N.K. Agrawal, learned Senior Counsel

for the appellant, Shri G.P. Ojha, learned Government Advocate

No. 7 for the State and Shri Dilip Kumar Tiwari, learned

counsel for the Respondent No. 8.



2. The appeal is reported to be delayed by 29 days.

3. We have considered the affidavit filed in support of the delay condonation application and we find that sufficient cause has been shown to condone the delay in filing the appeal. The delay is condoned and the appeal shall be treated to be within time.

4. I.A. No. 5554 of 2018 stands allowed accordingly.

Re: L.P.A. No. 608 of 2018

After the matter was heard at length and it was noticed by the Court that reasons in support of the conclusion drawn by the learned Single Judge do not appear to be sufficiently worded, we find it necessary to set aside the judgment and remit the matter back before the learned Single Judge.

Learned counsel for the respondent-petitioner contends that even the inquiry which was conducted was not in accordance with rules and the procedure prescribed, inasmuch as, there was only one person who conducted the inquiry, and without considering the explanation given, the impugned orders were passed that came to be affirmed in appeal and in revision.



We would have appreciated this argument had the aforesaid reason formed part of the impugned judgment, but the learned Single Judge does not appear to have recorded any such finding. The recital in the impugned judgment that the explanation given ought to have been considered as the report was cryptic, there is nothing in the impugned judgment so as to indicate as to why the report was being considered cryptic enough so as to warrant interference under Article 226 of the Constitution of India when all the authorities relating to the resolution of such dispute had recorded a finding of fact and had concluded otherwise.

We, therefore, do not express any opinion on the merits of the contentions raised by the parties and we set aside the impugned judgment dated 26th February, 2018 passed in C.W.J.C. No. 11835 of 2013 on the short ground that it is not supplemented by sufficient reasons so as to sustain the same. The appeal is, accordingly, allowed. The matter is remitted back before the learned Single Judge before whom it will be open to the parties to contest their claim afresh on the basis of the pleadings before the learned Single Judge or such other material that may be necessary in that regard. It shall be open to the parties to raise all such contentions that are available in law.



The matter may be listed before the learned Single Judge on 29th of April, 2019 and shall be heard subject to the convenience of the Court concerned.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

AFR/NAFR	
CAV DATE	
Uploading Date	16.04.2019
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