

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1474 of 2018

In

Civil Writ Jurisdiction Case No.15677 of 2017

Samanti Devi, Daughter of Khenhar Dusadh, Resident of Village- Suksenwa Mishra, P.O.-Bhagipatti Jheel, P.S.-Kateya, Circle-Kateya, Sub Division- Hathua, District-Gopalganj.

... .. Appellant.

Versus

1. The State Of Bihar through the District Magistrate, Gopalganj.
2. The District Magistrate, Gopalganj.
3. The Sub-Divisional Officer, Hathua, District-Gopalganj
4. The Circle Officer, Kateya, District – Gopalganj.

..... Respondents 1st Set/Respondents 1st Set

5. The Principal Secretary, Department of Home Police, Government of Bihar, Patna.
6. The Superintendent of Police, Gopalganj, District-Gopalganj
7. The Sub Divisional Police Officer Hathua, District-Gopalganj
8. The Thanadhayaksh, Kateya Police Station, Kateya, District-Gopalganj.

... .. Respondents 2nd set/Respondents 2nd Set.
..... Respondents.

Appearance :

For the Appellant/s : Mr.Sanjay Kumar Pandey No-5
For the Respondent/s : Mr.Prabhat Kumar Verma, AAG-3
Mr. Saroj Kumar Sharma, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

3 21-01-2020 Heard Mr. Sanjay Kumar Pandey No. 5, learned counsel for the appellant and Mr. Saroj Kumar Sharma, learned AC to AAG-3.

I.A. No. 272 of 2019 has been preferred for condoning the delay of 127 days in filing the present appeal.

Considering the grounds taken in the Interlocutory



Application showing sufficient cause in not filing the present appeal within stipulated time, the delay of 127 days day in filing the present appeal is, hereby, condoned.

Accordingly, I.A. No. 272 of 2019 stands disposed of.

The present appeal has been preferred against the order dated 30.04.2018 passed in C.W.J.C. No. 15677 of 2017, whereby the appellant was permitted to withdraw the writ application with liberty to avail the remedy available under law. However, learned Single Judge has directed for not entertaining any writ application on the subject in issue. The impugned order reads as follows:-

“After some arguments, learned counsel for the petitioner seeks permission to withdraw the present writ petition with liberty to avail any other remedy available to the petitioner under the law.

In view of the aforesaid, the present writ petition is dismissed as withdrawn.

However, it is made clear that henceforth no writ petition, on the subject matter in issue in the present case shall lie before this Court.”



The writ application was filed with a prayer that since the father of the appellant, Khenhar Dusadh, was a Chaukidar and he submitted an application for voluntary retirement after nominating the appellant since she is his only daughter, hence, she should be appointed as a Chaukidar in place of her father.

It is submitted by learned counsel for the appellant that after withdrawal of the writ application, the appellant submitted representation before the District Magistrate, Gopalganj, who has rejected the claim of the appellant vide order dated 02.02.2019, though the same is not on record, but the appellant is unable to challenge the said order in view of the observation made in the last paragraph of the impugned order, whereby the appellant has been precluded to file writ application. Hence, learned counsel for the appellant confines his prayer only to the extent of modifying the last paragraph of the impugned order.

Learned counsel appearing for the respondent-State has no objection with regard to modification of the last portion of the impugned order.

In the circumstances, last paragraph of the impugned order, whereby the appellant has been precluded to file writ application, is modified to the extent that the appellant is at



liberty to take recourse to the legal remedies available to her under law.

Accordingly, the present Letters Patent Appeal is disposed of with above mentioned modification of the impugned order.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

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