

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.159 of 2021

In
Civil Writ Jurisdiction Case No.15778 of 2018

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1. The State Of Bihar Through the Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna.
 2. The Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna.

... .. Appellant/s

Versus

1. The Tilka Manjhi Bhagalpur University through its Registrar,
2. The Vice - Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
3. The Registrar, Tilka Tilka Manjhi Bhagalpur University, Bhagalpur.
4. The Finance Officer, Tilka Manjhi Bhagalpur University, Bhagalpur.
5. Sunita Mishra @ Dr. Sunita Mishra W/o Dr. Pitambar Pathak Resident of Radha Rani Sinha Road, P.s. - Adampur, District- Bhagalpur, Presently Working as a Lecturer in the Department of Home, Science, Sabour College, Sabour, District- Bhagalpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sarvesh Kumar Singh, AAG-13
Mr. Shashi Shekhar Tiwary, AC to AAG-13
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-07-2022

Heard learned counsel for the parties.



2. In the instant appeal the appellant-State has questioned the validity of the order dated 10.10.2018 passed in CWJC No.15778 of 2018. There is a delay about 2 years 2 months 18 days. The reasons are not satisfied for the reasons that as usual the file was under movement from one desk to another desk and further from one Department to another Department. The Apex Court in **State of Madhya Pradesh and Others vs. Bherulal** reported in **(2020) 10 SCC 654** and in the case of **Municipal Corporation of Greater Mumbai and Ors. vs. Uday N. Murudkar** reported in **(2021) 11 SCC 816** held that if there is a belated appeal on behalf of the State sufficient cause must be shown to condone the delay.

3. The State-appellant is not affected by the learned Single Judge order dated 10.10.2018, orders read as under:

“In view of the aforesaid submissions made by the respective counsel for the parties, the present writ petition is allowed and the Respondent No.5 is directed to consider the case of the petitioner in light of the aforesaid judgment dated 17.07.2018 and issue orders for absorption as also grant consequential benefits within a period of four months from today.”



4. The aforesaid direction is to the 5th respondent, the Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur. If the State is affected in any manner in the light of the aforesaid direction to the learned Single Judge one can understand that the LPA is maintainable. On the other hand direction is to 5th respondent to consider the case of the petitioner- Sunita Mishra @ Dr. Sunita Mishra for absorption and grant of consequential benefits. In this regard, if the State is likely to be affected in future relating to funding any monetary issues to the University, in that event the State must have interaction with the 5th respondent University and the same cannot be adjudicated in the present LPA for the reasons that learned Single Judge had only directed to 5th respondent to consider the case of the respondent-Sunita Mishra in light of earlier decision of this Court passed in CWJC No.17670 of 2017.

5. At this juncture learned counsel for the appellant submitted that an appeal has been preferred and it is numbered as L.P.A. No.1556 of 2018 and accepting consideration. Even assuming that in CWJC No.17670 of 2017 if there are any certain direction to the State, in that event the present appeal could be distinguished for the reasons that the learned Single Judge in the present matter has directed the 5th respondent to consider the



grievance of the resondent- Sunita Mishra and there are no directions to the State.

6. In the light of these facts and circumstances both on the ground of delay as well as maintainability of the present appeal by the State of Bihar, appeals stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.07.2022
Transmission Date	

