

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.457 of 2019

In
Civil Writ Jurisdiction Case No.16126 of 2013

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Adya Sharan Chaudhary S/o Late Mata badal Choudhary Resident of Mohalla
and P.O. - Orijet, District - Basti, Uttar Pradesh

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Law,
Govt. of Bihar
2. The Principal Secretary Department of Law, Govt. of Bihar, Patna
3. The Bihar State Legal Services Authority Budh Marg, Patna through its
Member Secretary at Budh Marg, Patna
4. The Member Secretary Bihar State Legal Services Authority, Budh Marg,
Patna
5. The District and Sessions Judge cum Chairman District Legal Services Au-
thority, Kaimur at Bhabhua, Distt.- Kaimur
6. The Sub-Judge-I cum Secretary District Legal Services Authority, Kaimur at
Bhabhua, Distt.- Kaimur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Pandey No.5, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha (GA7)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-11-2022

This matter is heard *via* video conferencing.

Heard I.A. No. 01 of 2021 for condonation of delay of
286 days in filing the present L.P.A.

For the reasons stated in the application and affidavit,
delay of 286 days in filing the present L.P.A. is condoned. Accord-
ingly, I.A. No. 01 of 2021 stands allowed.



L.P.A. No. 457 of 2019

Mr. Anjani Kumar, learned Additional Advocate General is hereby directed to take notice on behalf of the respondents. He accepts notice on behalf of respondents.

The appellant has assailed the order of learned Single Judge dated 11.05.2018 passed in C.W.J.C. No. 16126 of 2013.

In the instant Letters Patent Appeal, the appellant has sought for the following reliefs:-

"a. To calculate and sanction the honorarium of the Petitioner – who has worked as Judicial Member at the Permanent Lok Adalat Kaimur at Bhabhua – for the period of 07.05.2010 to 1704.2013; in accordance with the Regulation 39 of the Bihar State Legal Services Authority Regulation 1998.

b. And further to pay the amount accrued to the Petitioner, after deducting the amount, already paid to the Petitioner."

In support of the aforesaid relief, there is no representation before the competent authority that he had a statutory right to claim certain honorarium in terms of Regulation 39 of the Bihar State Legal Services Authority Regulation, 1998 (for short "Regulation 1998"). The appellant is disputing to certain extent that he is entitled to certain amount in terms of Regulation 39 on the other hand authorities have not adhered to Regulation 39 of Regulation, 1998. In this regard, before invoking writ jurisdiction under



Article 226 the appellant has failed to submit a detailed representation before the competent authority to the extent that there is an error in settling honararium in terms of Regulation 39. In the absence of demand read with the statutory right vested with the appellant before the competent authority writ itself is not maintainable in the light of Hon'ble Apex Court decision in the case of **Mani Subrat Jain vs. State of Haryana** reported in (1977) 1 SCC 486. In paragraph 9, it is held as under:-

"9. The High Court rightly dismissed the petitions. It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something."

Learned Single Judge should have rejected the appellant's writ petition at threshold in the light of the principle laid down by the Hon'ble Apex Court decision in the case of **Mani Subrata Jain** (supra).

In the light of these facts and circumstances, the appellant is hereby directed to submit a detailed representation before the competent authority in establishing his vested right that he is entitled to a particular amount towards honararium in the light of



Regulation 39 of Regulation, 1998. If such representation is submitted within a period of two months from the date of receipt of this order, thereafter, the competent authority is hereby directed to take note of appellant's representation and proceed to pass speaking order and communicate the same within a period of three months from the date of receipt of the appellant's representation. The order of the learned Single Judge would not come in the way of deciding the appellant's representation by the competent authority.

Accordingly, the present Letters Patent Appeal No. 457 of 2019 stands disposed off.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

