

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.765 of 2019

In
Civil Writ Jurisdiction Case No.23018 of 2018

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The State of Bihar through the Principal Secretary, Department of Education,
Government of Bihar, Patna.

... .. Appellant/s

Versus

1. The Bhupendra Narayan Mandal University Laloo Nagar, Madhepura through its Registrar.
2. The Vice -Chancellor Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura.
3. The Registrar Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura.
4. The Principal Rajendra Mishra College R.M.College, Saharsa, District-Saharsa.
5. Chandra Shekhar Jha Son of Late Mahendra Jha Presently working as Lecturer, Department of Hindi, Rajendra Mishra College Presently residing at Hatiyagachi, Ward No.32, P.S. and District-Saharsa.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shashi Shekhar Tiwary (Ac To Aag 15)
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

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

Date : 22-07-2022

The matter is heard through video conferenceing.

2. In the instant L.P.A. the appellant-State has questioned the validity of the order dated 29.01.2019 passed in CWJC No. 23018 of 2018. There is delay of 119 days in filing the present L.P.A. The reasons are not satisfied for the reasons that as usual the file was moving 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's order dated 29.01.2019. Order reads as under:

“Accordingly, the present writ petition is disposed of with a direction to the petitioner to file a representation along with the aforesaid judgment within a period of four weeks from today and the respondent no. 4 shall dispose of the same within a period of twelve weeks thereafter and in case it is found that the case of the petitioner is squarely covered by the aforesaid judgment passed in the case of Chandra Shekhar Jha (supra), the service of the petitioner shall also be absorbed and consequential relief shall also be granted to the petitioner herein.”

The aforesaid direction is to the 4th respondent, the Registrar, Bhupendra Narayan Mandal University. If the State is affected in any manner in the light of the aforesaid direction of the learned Single Judge one can understand that the LPA is maintainable. On the other hand direction is to 4th respondent to consider the case of the Petitioner-Respondent- Chandra



Shekhar Jha 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 4th Respondent-Registrar, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura and the same cannot be adjudicated in the present LPA for the reasons that learned Single Judge had only directed to 4th respondent-Registrar, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura to consider the case of the Petitioner-Respondent- Chandra Shekhar Jha in the light of earlier decision of this Court passed in CWJC No.17670 of 2017.

4. 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 it is pending 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 University to consider the grievance of the Petitioner-Respondent- Chandra Shekhar Jha and there are no directions to the State.

5. 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 is not made out. Accordingly, the present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

rakhi/-

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CAV DATE	
Uploading Date	02.08.2022
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