

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1514 of 2019

In
Civil Writ Jurisdiction Case No.10364 of 2018

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1. The State of Bihar through Principal Secretary, Education Department, Bihar.
 2. The Director, Higher Education, Patna.

... .. Appellant/s

Versus

1. Magadh University, Bodh Gaya through its Registrar.
2. The Vice-Chancellor, Magadh University, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.
4. Manoj Shankar Gupta, Son of Late Banshidhar Prasad, Resident of Konark Residency, Road No. 12, P.O.-Rajendra Nagar, P.S.-Kadamkuan, District-Patna.
5. Narendra Kumar Mishra, Son of Nawal Kishore Mishra, Resident of New Chitragupta Nagar Back of Om Residency, P.O.-Lohianagar, P.S.-Kankarbagh, District-Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rakesh Narayansingh (Ac To Aag 15)
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 : 13-07-2022

Heard learned counsel for the State.

In the instant appeal the appellant-State has questioned the validity of the order dated 19.09.2018 passed in CWJC No.10364 of 2018. There is a delay about one year. 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.

The State-appellant is not affected by the learned Single Judge's order dated 19.09.2018. Order reads as under:

“In view of the aforesaid submissions made by the learned counsel for the respective parties, the present writ petition is disposed of in terms of the aforesaid judgment dated 17.07.2018 and the University is directed to grant same and similar reliefs to the petitioner herein within a period of four weeks from today.”

The aforesaid direction is to the 5th respondent, the Registrar, Magadh University, Bodh Gaya. 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 Petitioners-Respondents- Manoj Shankar Gupta and Narendra Kumar 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- Registrar, Magadh University, Bodh Gaya and the same cannot be adjudicated in the present LPA for the reasons that learned Single Judge had only directed to 5th respondent-Registrar, Magadh



University, Bodh Gaya to consider the case of the Petitioners- Respondents- Manoj Shankar Gupta and Narendra Kumar Mishra in the light of earlier decision of this Court passed in CWJC No.17670 of 2017.

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 Petitioners-Respondents- Manoj Shankar Gupta and Narendra Kumar Mishra and there are no directions to the State.

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 appeal stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

rakhi/-

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CAV DATE	
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