

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21384 of 2013

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Vikash Mishra @ Vikash Kumar Son Of Late Amar Kumar Mishra Resident
Of Village - Nawada Fatuha, P.O. - Mehta Tola P.S. - Kotwa, Dist - East
Champaran

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary Department Of Science And Technology, Bihar,
Patna
3. The Director Department Of Science And Technology, Patna Bihar
4. The District Magistrate, East Champaran, Motihari
5. Principal Indian College Of Engineering , Motihari, East Champaran

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhurendra Kumar, Adv.
For the Respondent/s : Mr. Yogendra Pd. Sinha, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

- 2 06-02-2023 1. Admittedly, the services of the petitioner's deceased father was regularized by the respondents vide order dated 19th June, 2006 with effect from 31st January, 1991. He expired in the year 1995 while in service however, as the question regarding regularization was pending. The application for compassionate appointment was filed by petitioner only on 03.12.2007, but the same was rejected on 04.12.2008 stating reasons that Motihari Engineering College is not a Government institution and also that the petitioner has submitted application seeking compassionate appointment beyond time limitation.
2. Learned counsel appearing for the State submits



that since, the petitioner's father expired in the year 1995, application filed before the Chief Minister, Bihar in Janta Darbar 2003 was highly belated and could not have been entertained. The learned counsel for the respondent further submits that the application was to be filed in a prescribed format and therefore, the same was rejected and also that the institution was previously a private institution.

3. I have considered the submissions, it is a case of showing how red-tapism has percolated deep into the Indian administrative system deeply, where false and imaginary reasons are created to reject a rightful claim of an individual for extraneous reasons and considerations.

4. Once the respondents themselves have regularized the services of deceased father of the petitioner on 19th June, 2006 retrospectively, the petitioner's application for seeking compassionate appointment could not have been entertained prior to the same. It appears that the petitioner's application was not even entertained thereafter, and she, the mother of the petitioner therefore submitted a representation to the Chief Minister in Janta Darbar on 03.12.2007, which was forwarded to the respondents for further action but instead of taking a compassionate approach to such application, the respondents



have proceeded to reject the same summarily, in an arbitrary manner mentioning the college not to be a Government institution, although the institution had been taken over by the State Government in the year 1986. The application sent from the office of the Chief Minister can also not be said to be belated in any manner. The ground being raised by learned counsel for the respondent that the application was not in correct format cannot be an obvious reason to reject the claim. The petitioner could have been asked to fill a proper application in the correct format also. The attitude of the respondents is deprecated.

5. The order passed by the respondents is therefore, quashed and set aside with direction to consider the candidature of the petitioner for compassionate appointment within a period of two months henceforth. The appointment shall be treated notional from the date application was moved. However, the actual benefits shall only be available from the date of passing the order.

6. The writ petition is allowed to the aforesaid extent.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 32

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