

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.650 of 2022
In
Civil Writ Jurisdiction Case No.6259 of 2019

1. Prince son of Sri Prabhat Chandra Verma resident of C/o Sri Prabhat Chandra Verma, House No. B- 92, Buddha Colony, P.S. Buddha Colony, P.O.- G.P.O., Patna- 800001.
2. Prince Kumar son of Sri Jagdish Sah, resident of C/o Sri Jagdish Sah, Village- Govindpur, P.O.- Fatuha, P.S. Fatuha, District- Patna, Bihar- 803201.
3. Vikash Kumar @ Vikas Kumar son of Sri Krishana Prasad Gupta, resident of C/o Sri Krishna Prasad Gupta, Kanap Road, Haspura, P.O. and P.S.- Haspura, District- Aurangabad, Bihar- 824120.
4. Rahul Kumar son of Sri Radheshyam Pandey resident of C/o Sri Radheshyam Pandey, Village- Morauna, P.O.- Durgadih, P.S.- Bikramganj, District- Rohtas, Bihar- 802212.
5. Jaywardhan Kumar son of Sri Ram Pratap Singh, resident of C/o Sri Rampratap Singh, Village and P.O.- Meghi, P.S. Deepnagar, District Nalanda, Bihar- 803111.
6. Uday Prakash Bhaskar son of Sri Raghu Nandan Ram, resident of C/o Sri Raghu Nandan Ram, Village and Post- Dhandiha, Near State Boring No. 24, P.S. Koilwar, Bhojpur, Bihar- 802160.
7. Shubhendu Jha son of Sri Jitendra Jha, resident of C/o Sri Jitendra Jha, Adarsh Nagar, Behind Shyam Sisu Sadan, P.S. Mufassil, P.O.- Dhurlakh, District- Samastipur, Bihar- 848101.
8. Anand Kumar son of Sri Foujdari Ram resident of C/o Sri Foujdari Ram, Village- Kajha Kothi, P.O. Kajha, P.S. K. Nagar, District- Purnea, Bihar- 854301.
9. Md. Sarfraz Alam son of Sri Shamim Uddin resident of C/o Sri Md. Shamim Uddin, Mohalla- Pakki Talab, P.O.- Biharsharif, P.S.- Laheri, District- Nalanda, Bihar- 803101.
10. Md. Farrukh Imam son of Sri Md. Nesar Ahamd, resident of C/o Sri Md. Jamaluddin, Charuanwan, P.O. Charuanwan, Via- Nimi, District- Sheikhpura, Bihar- 811103.
11. Bhanupratap Rai son of Sri Radheshyam Rai, resident of C/o Sri Radheshyam Rai, Village- Chakigarh, P.O. Saidpur, P.S.- Shikarpur, District- West Champaran, Bihar- 845455.
12. Nikhil Vinay son of Sri Ashok Kumar Srivastava resident of C/o Sri Ashok Kumar Srivastava, Purnea College Campus, Jaiprakash Nagar, P.O. H.P.O., Purnea, P.S. K. Hat, District- Purnea, Bihar- 854301.
13. Ravi Ranjan son of Sri Mukesh Pandey resident of C/o Sri Mukesh Pandey, Village- Nawalpur, P.O.- Mushahari, P.S. Kathaiyan, District- Muzaffarpur, Bihar- 843124.



14. Suresh Kumar Singh son of Sri Bindeshwari Singh, resident of C/o Sri Bindeshwari Singh, Village- Kudiya, P.O. and P.S.- Piprakothi, District- East Champaran, Pin Code- 845429.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Law Department, Bihar, Patna.
2. Patna High Court, Patna through the Registrar General.
3. The Convenor, Coordination Committee Patna-cum-District and Sessions Judge, Patna.
4. Anup Kumar Trilok son of Sri Rajkishore Thakur, C/o Sri Rajkishore Thakur, Chainpur, P.O.- Chainpur, P.S.- Bangaon, District- Saharsa, Bihar- 852212.
5. Shankar Kumar Gupta son of Sri Birchand Prasad Gupta, resident of C/o Sri Birchand Prasad Gupta, Sharifganj, P.O.- Daheria Mills, P.S. Katihar, District- Katihar, Bihar-854105.

... .. Respondent/s

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with
Letters Patent Appeal No. 657 of 2022
In
Civil Writ Jurisdiction Case No.21219 of 2018

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1. Prashant Kumar S/o Bishwamohan Thakur, R/o Ward No.40, Sahjanand Thakur, Road No. 1, Begusarai Sadar, Begusarai, Bihar- 851101
2. Vipin Kumar S/o Rajendra Prasad Singh, R/o Village and P.O. and P.S.- Kako, District- Jehanabad, Bihar- 804418
3. Ajay Kausal @ Ahay Kaushal Son of Lal Babu Bhagat, Resident of Village- Mohanpur, P.O. and P.S.- Maner, District- Patna, Bihar- 801108
4. Sanjay S/o Ramjee Singh, R/o House No. 09, Pahalwan Ji Gali, North of D.V.C. Road, Yarpur, Patna, G.P.O- Patna, Bihar- 800001
5. Amit Kumar S/o Vidya Sagar Gupta, R/o Mohalla- Chiriyatand, P.O.- GPO, P.S.- Jakkanpur, Patna, Bihar- 800001
6. Priyatam Patel S/o Ramesh Patel, R/o Village- Kuttubchak, P.O. Ramjanpur, P.S. Barbiga, District- Sheikhpura, Bihar- 811101
7. Kunal S/o Shivnandan Prasad Yadav, Resident of Village- Alinagar, P.O. Barbiga, P.S. Sare, District- Nalanda, Bihar- 811101
8. Vinit Ranjan @ Vinti Ranjan S/o Satyendra Singh, R/o Village- Simaru, P.O.- Gurua, P.S. Gurua, District- Gaya, 824205



9. Chandan Kumar S/o Nand Kishor Sah, R/o Village- Bishnupur, P.O.- Bishnupur, P.S. Bela, District- Sitamarhi, Bihar- 843324
10. Anant Kumar S/o Ramanand Paswan, R/o Mohalla- Bahadurpur, P.S. Bahadurpur, P.O. Samastipur, District- Samastipur, Bihar- 848101
11. Sujeet Kumar S/o Sitaram Mahto, Resident of Village- Madudabad, P.O. and P.S. Mohaddinagar, District- Samastipur, Bihar- 848502
12. Tarun Kumar S/o Jagdish Prasad, R/o Sankat Mochan Path, Mitramandal Colony, Saket Vihar, Anishabad, Patna, Bihar- 800002
13. Nikhil Kumar S/o Brajesh Prasad, R/o Gram- Bhawanipur, P.O.- Thikahan Bhawanipur, Pakri, Sangrampur, East Champaran, Bihar- 845434
14. Kunal Kumar Verma S/o Ajay Kumar Verma, R/o 76, Janakapur, Anchal-Manpur, District- Gaya, Bihar- 823003.
15. Vikash Kumar S/o Anil Prasad R/o Mohalla- Chiriyatand, Janta Path lane, P.O.- GPO, P.S. Kankarbagh, District- Patna, Bihar- 800001
16. Shreekant Kumar S/o Ramkundal Mahto R/o Village and P.O.- Onda, P.S.- Sare, District- Nalanda, Bihar- 803107

... .. Appellant/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Law Secretary, Law Secretary, Law Department Govt. of Bihar, Patna.
3. The Patna High Court, through its Registrar General.
4. Registrar General, Patna High Court, Patna.
5. The Convener, Co-ordination Committee-cumcommittee-cum-District and Sessions Judge, Patna, Judges Court, Road, Civil Court, Patna, P.O.- Bankipur, District- Patna.
6. Suprabhat Kumar Son of Ganesh Mishra Resident of Village- Chhatauna, P.O.- Chhatauna, P.S. Naokothi, District- Begusarai
7. Gaurav Kumar Son of Surendra Prasad Resident of Village- Gokulchak Milki, P.O.- Kapsiyawan, P.S. Hilsa, District- Nalanda.
8. Vishwajeet Kumar Son of Bipin Bishwas Resident of Mohalla- Rajendragram, P.S and P.O.- Katihar, District- Katihar.
9. Jagat Narayan Rai Son of Radha Prasad Rai Resident of Village- Mahadev Chak, Post- Purana Haripur, P.S. Koelwar, District- Bhojpur
10. Pramod Kumar Burnawal Son of Pradeep Burnawal Resident of Village and P.O. and P.S. Sono, District- Jamui.
11. Amrish Kumar Tripathy Son of Ashok Kumar Tripathy Resident of Mohalla- 20/A Railway Colony, Railway Station Ara, P.S. and P.O.- Ara, District- Bhojpur.
12. Randhir Kumar Mahto Son of Ramchandra Mahto Resident of Village- Bisfigola, P.O. and P.S. Bisfi, District- Madhubani.



13. Dheeraj Kumar Son of Shailendra Kumar Singh Resident of Village- Rakasiya, Post- Lalabhadsara, P.S.- Dulhin Bazar, District- Patna.
14. Shyam Babu Kumar Son of Prabhu Prasad Resident of Village- Bhaluwahiya, P.O. and P.S. Mainatand, District- West Champaran.
15. Naveen Kumar Son of Kamal Mistri Resident of Village- Kakariya, P.O.- Kalpa, P.S. Jehanabad, District- Jehanabad.
16. Mritunjay Kumar Son of Ram Naresh Tiwari Resident of Village- Chakarpetta Tola Tewsa, P.O. and P.S.- Madhurapur, Phenhara, District- East Champaran.
17. Pankaj Kumar Son of Birendra Sah Resident of Village- Chaura, P.O. and P.S. Chaura, District- Jamui.
18. Prem Shankar Lal Son of Mohan Lal Resident of Mohalla- Mithapur B Area Shastri Lane, P.O.- GPO, P.S. Jakkanpur, District- Patna.
19. Karan Gupta Son of Lakshman Prasad Resident of Village- Kazipur, P.O. Dumri, P.S.- Simri, District- Buxar.
20. Ajeet Kumar Son of Tuli Yadav Resident of Village- Konhwa, P.O.- Karariya, P.S. Kotwa, District- East Champaran.
21. Monu Kumar Son of Sheodyal Das Resident of Village- Chamardih, P.O.- Alawalpur, P.S.- Gaurichak, District- Patna.
22. Ajay Kumar Jha Son of Pramod Jha Resident of Village- Chouri, P.O. Balua Kaliyanganj, P.S.- Palasi, District- Araria.
23. Dew Kumar Son of Basudew Bhagat Resident of Village- Mahaddipur, P.O.- Sinduari, P.S. Uphara, District- Aurangabad.
24. Saurabh Kumar Son of Satyanand Prasad Resident of Village and P.O.- Khanetoo, P.S. Tekari, District- Gaya.
25. Ajit Kumar Roy Son of Sanjay Kumar Yadav Resident of Village and P.O.- Maricha, P.S. Tajpur, District- Samastipur.
26. Saket Kumar Aman Son of Baliram Prasad Resident of Village- Pariom, P.O. Makhmilpur, P.S. Paliganj, District- Patna.
27. Abhishek Kumar Son of Kameshwar Pathak Resident of Village- Bikram, P.O. Bikram, P.S. Bikram, District- Patna.
28. Pankaj Singh Son of Lal Babu Singh Resident of Village- Marar Kala, P.O.- Chorma, P.S. Bhagwanpur Hat, District- Siwan.
29. Dhiraj Kumar Son of Ramprit Mahto Resident of Village- Bahrapur, P.O. Naipur, P.S. Bachhwara, District- Begusarai.
30. Sanoj Kumar Mandal Son of Mahesh Mandal Resident of Mohalla- BoudhVihar, Kahalgaon, P.O. and P.S.- Kahalgaon, District- Bhagalpur.
31. Saurav Kumar Son of Jai Prakash Lal Resident of Village- Nerut, P.O.- Nerut, P.S. Sare, District- Nalanda.
32. Nityanan Kumar Son of Sitaram Prasad Resident of Village- Bediban Madhuban, P.O.- Madhuban, P.S. Pipra, District- East Champaran.
33. Ram Krishna Singh Son of Chaturbhuj Nath Singh Resident of Village- Basudeopur Chandel, P.O. Basudeopur Chandel, P.S. Mahnar, District- Vaishali.



34. Amrendra Kumar Son of Sakaldeo Vind Resident of Village- Kare, P.S. and P.O.- Sheikhpora, District- Sheikhpora.
35. Prabhash Kumar Watsa Son of Vivekanand Thakur Resident of Village- Birvan, P.O. Ghatchikni Via Kursakanta, P.S. Sonamani Godawn, District- Araria.
36. Kamlesh Kumar Son of Late Hazari Baitha Resident of Mohalla- Mangal Chowk, P.O.- New Jaganpura, P.S. Ramkrishna Nagar, District- Patna
37. Chandra Prakash Ajit Son of Akshaya Kumar Mishra Resident of Village- Hariharpur, P.O. and P.S.- Teghr, District- Begusarai.
38. Satish Prakash Son of Rajendra Kumar Resident of Village- Tiyya, P.O.- Jaijore, P.S.- Andar, District- Siwan.
39. Chandan Pandey Son of Mithila Bihari Sharan Resident of Mohalla- Diwan Mohalla, Khanger Gali, Sarvoday Colony, P.S.- City Chowk, District- Patna.

... .. Respondent/s

with
Letters Patent Appeal No. 661 of 2022
In
Civil Writ Jurisdiction Case No.21219 of 2018

1. Dheeraj Kumar son of Sri Shailendra Kumar Singh, resident of Village- Rakasiya, P.O.- Lalabhadsara, P.S.- Dulhin Bazar, District- Patna.
2. Gaurav Kumar, son of Sri Surendra Prasad, resident of Village- Gokulchak Milki, P.O.- Kapsiyawan, P.S. Hilsa, District- Nalanda.
3. Vishwajeet Kumar, son of Sri Bipin Bishwas, resident of Mohalla- Rajendra Gram, P.O. and P.S.- Katihar, District- Katihar.
4. Jagat Narayan Rai, son of Sri Radha Prasad Rai, resident of Village- Mahadev Chak, P.O.- Purana Haripur, P.S. Koilwar, District- Bhojpur.
5. Amrish Kumar Tripathy, son of Sri Ashok Kumar Tripathy, resident of Mohalla- 20/A, Railway Colony, Railway Station, Ara, P.O. and P.S. Nawada, Ara, District- Bhojpur.
6. Karan Gupta, son of Sri Lakshman Prasad, resident of Village- Kazipur, P.O. Dumri, P.S.- Simri, District- Buxar.
7. Monu Kumar, son of Sri Sheodyal Das, resident of Village- Chamardih, P.O.- Alawalpur, P.S.- Gaurichak, District- Patna.
8. Ajay Kumar Jha, son of Sri Pramod Jha, resident of Village- Chauri, P.O. Balua Kaliyaganj, P.S.- Palasi, District- Araria.
9. Pankaj Kumar, son of Birendra Sah, resident of Village- Chaura, P.O. and P.S.- Chaura, District- Jamui.
10. Saurabh Kumar, son of Sri Satyanand Prasad, resident of Village and P.O.- Khanetoo, P.S. Tekari, District- Gaya.



11. Dhiraj Kumar, son of Sri Ramprit Mahto, resident of Village- Bahrapur, P.O. Naipur, P.S. Bachhwara, District- Begusarai.
12. Nityanand Kumar, son of Sri Sitaram Prasad, resident of Village- Bediban Madhuban, P.O.- Bediban Madhuban, P.S. Pipra, District- East Champaran.
13. Ram Krishna Singh, son of Sri Chaturbhuj Nath Singh, resident of Village and P.O. Basudeopur Chandel, P.S. Mahnar, District- Vaishali.
14. Amarendra Kumar, son of Sri Sakaldeo Vind, resident of Village- Kare, P.O., P.S. and District- Sheikhpura.
15. Chandan Pandey, son of Sri Mithila Bihari Sharan, resident of Mohalla-Diwan Mohalla, Khanjar Gali, Sarvodaya Colony, P.S.- Khajekalan, District- Patna.

... ... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Law Secretary, Law Department, Government of Bihar, Patna.
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4. Registrar General, Patna High Court, Patna.
5. The Convener, Co-ordination Committee-cum- District and Sessions Judge, Patna, Judges Court Road, Civil Court, Patna, P.O.- Bankipur, District- Patna.
6. Suprabhat Kumar, son of Ganesh Mishra, resident of Village and P.O.- Chhatauna, P.S. Naokothi, District- Begusarai.
7. Prashant Kumar, son of Vishwamohan Thakur, resident of Mohalla-Ramnagar Vishnupur, P.S., P.O. and District- Begusarai.
8. Pramod Kumar Burnawal, son of Pradeep Barnwal, resident of Village, P.O. and P.S. Sono, District- Jamui.
9. Bipin Kumar, son of Rajendra Prasad Singh, resident of Village, P.O. and P.S. Kako, District- Jehanabad.
10. Randhir Kumar Mahto, son of Ramchandra Mahto, resident of Village-Bisfigola, P.O. and P.S. Bisfi, District- Madhubani.
11. Ajay Kaushal, son of Lal Babu Bhagat, resident of Village- Mohanpur, P.O. and P.S.- Maner, District- Patna.
12. Shyambabu Kumar, son of Prabhu Prasad, resident of Village- Bhaluwahiya, P.O. and P.S.- Mainatand, District- West Champaran.
13. Naveen Kumar, son of Kamal Mistri, resident of Village- Kakariya, P.O.- Kalpa, P.S.- Jehanabad, District- Jehanabad.
14. Mritunjay Kumar, son of Ramnaresh Tiwari, resident of Village-Chakarpetta Tola Twesa, P.O. and P.S.- Madhurapur Phenara, District- East Champaran.
15. Dew Kumar, son of Sri Basudew Bhagat, resident of Village- Mahaddipur,



P.O.- Sinduari, P.S.- Uphara, District- Aurangabad.

16. Prem Shankar Lal, son of Mohan Lal, resident of Mohalla- Mithapur B-Area, Shastri Lane, P.O.- G.P.O., P.S.- Jakkanpur, District- Patna.
17. Ajit Kumar, son of Tuli Yadav, resident of Village- Konhwa, P.O.- Karariya, P.S.- Kotwa, District- East Champaran.
18. Sujeet Kumar, son of Sitaram Mahto, resident of Village- Madudabad, P.O. and P.S.- Mohdinagar, District- Samastipur.
19. Nikhil Kumar, son of Brajesh Prasad, resident of Village- Bhawanipur, P.O.- Thikahan Bhawanipur, P.S. Sangrampur, District- East Champaran.
20. Vikas Kumar, son of Anil Prasad, resident of Mohalla- Chiraiyantarn, Janta Path Land, P.O.- G.P.O., P.S.- Kankarbagh, District- Patna.
21. Tarun Kumar, son of Jagdish Prasad, resident of Village and P.O.- Dhanchhuhan, P.S.- Churi, District- Bhojpur.
22. Srikant Kumar, son of Ramkunal Mahto, resident of Village and P.O.- Onda, P.S.- Sare, District- Nalanda.
23. Ajit Kumar Roy, son of Sanjay Kumar Yadav, resident of Village and P.O. Maricha, P.S.- Tajpur, District- Samastipur.
24. Sakesh Kumar Aman, son of Baliram Prasad, resident of Village- Parion, P.O.- Makhmilpur, P.S.- Paliganj, District- Patna.
25. Abhishek Kumar, son of Kameshwar Pathak, resident of Village, P.O. and P.S.- Bikram, District- Patna.
26. Pankaj Singh, son of Lal Babu Singh, resident of Marar Kala, P.O. Chorma, P.S.- Bhagwanpur Haat, District- Siwan.
27. Kunal, son of Shivnandan Prasad Yadav, resident of Village- Alinagar, P.O.- Barbiga, P.S.- Sare, District- Nalanda.
28. Sanoj Kumar Mandal, son of Mahesh Mandal, resident of Mohalla- Boudh Vihar, Kahalgaon, P.O. and P.S. Kahalgaon, District- Bhagalpur.
29. Anant Kumar, son of Ramanand Paswan, resident of Mohalla, P.S.- Bahadurpur, P.O.- Samastipur, District- Samastipur.
30. Saurabh Kumar, son of Jai Prakash Lal, resident of Village and P.O.- Nerut, P.S.- Sare, District- Nalanda.
31. Kunal Kumar Verma, son of Ajay Kumar Verma, resident of Village- Janakpur (Maurya Nagar), P.O.- Buniaganj, P.S.- Mufassil, District- Gaya.
32. Vinti Ranjan, son of Satyendra Singh, resident of Village- Simaru, P.O. and P.S.- Gurua, District- Gaya.
33. Sanjay, son of Ramjee Singh, resident of Mohalla- Gardanibagh, P.O. GPO, P.S. Gardanibagh, District- Patna.
34. Amit Kumar, son of Vidyasagar Gupta, resident of Mohalla- Chiraiyatarn, P.O.- GPO, P.S.- Jakkanpur, District- Patna.
35. Priyatam Patel, son of Ramesh Patel, resident of Village- Kuttubchak, P.S.- Ramjanpur, P.S.- Barbiga, District- Sheikhpura.
36. Prabhash Kumar Watsa, son of Vivekanand Thakur, resident of Village- Birvan, P.O.- Ghatchikni via Kursakanta, P.S.- Sonamani Godawan, District-



Araria.

37. Chandan Kumar, son of Nand Kishore Sah, resident of Village, P.O. Bishnupur, P.S. Bela, District- Sitamarhi.
38. Chandraprakash Ajit, son of Akshaya Kumar Mishra, resident of Village- Hariharpur, P.O. and P.S.- Teghra, District- Begusarai.
39. Satish Prakash, son of Rajendra Kumar, resident of Village- Tiya, P.O.- Jaijore, P.S.- Andar, District- Siwan.
40. Kamlesh Kumar, son of late Hazari Baitha, resident of Mohalla- Mangal Chowk, P.O.- New Jaganpura, P.S.- Ram Krishna Nagar, District- Patna.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 650 of 2022)

For the Appellant/s	:	Mr.Kumar Kaushik, Advocate
For the High Court	:	Mr.Sanjeev Kumar, Advocate
For the Respondent/s	:	Mr.Abhishek Singh, AC to Ga 7

(In Letters Patent Appeal No. 657 of 2022)

For the Appellant/s	:	Mr.Rajendra Narayan, Sr. Advocate
		Mr.Puneet Siddhartha, Advocate
		Mr.Riffat Fatima, Advocate
		Mr.Adarsh Raj Singh, Advocate
		Mr.Aryan Sinha, Advocate
For the Respondent/s	:	Mr. Abhishek Singh, AC to Ga 7

(In Letters Patent Appeal No. 661 of 2022)

For the Appellant/s	:	Mr.Saroj Kumar, Advocate
For the High Court	:	Mr.Sanjeev Kumar, Advocate
For the Respondent/s	:	Mr. Abhishek Singh, AC to Ga 7
For the Respondent No.40	:	Mr.Pratyesh Kumar, Advocate
		Mr.Vivek Kr. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

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

Date : 19-04-2023

Re: I.A. No. 01 of 2022 (LPA No. 650 of 2022)

Heard I.A. No. 01 of 2022.



2. I.A. No. 01 of 2022 has been filed in LPA No. 650 of 2022 arising out of CWJC No. 6259 of 2019 for condonation of delay.

3. For the reasons stated in the application and affidavit, delay of 17 days in filing LPA is condoned. Accordingly, I.A. No. 01 of 2022 in LPA No. 650 of 2022 arising out of CWJC No. 6259 of 2019 stands allowed.

Re: I.A. No. 01 of 2022 (LPA No. 661 of 2022)

4. Heard I.A. No. 01 of 2022.

5. I.A. No. 01 of 2022 has been filed in LPA No. 661 of 2022 arising out of CWJC No. 21219 of 2018 for condonation of delay.

6. For the reasons stated in the application and affidavit, delay of 15 days in filing LPA is condoned. Accordingly, I.A. No. 01 of 2022 in LPA No. 661 of 2022 arising out of CWJC No. 21219 of 2018 stands allowed.

Re: I.A. No. 01 of 2023 (LPA No. 657 of 2022)

7. Heard I.A. No. 01 of 2023.

8. I.A. No. 01 of 2023 has been filed in LPA No. 657 of 2022 arising out of CWJC No. 21219 of 2018 for condonation of delay.



9. For the reasons stated in the application and affidavit, delay of 18 days in filing LPA is condoned. Accordingly, I.A. No. 01 of 2023 in LPA No. 657 of 2022 arising out of CWJC No. 21219 of 2018 stands allowed.

10. In the instant LPA No. 650 of 2022, the appellants have assailed the order of learned Single Judge dated 29.09.2022 passed in CWJC No. 21219 of 2018 and connected matters. The appellants among others are candidates for recruitment to the post of Clerk pursuant to Employment Notice dated 07.02.2016. Employment Notice Bearing No. 01/2016 is relating to filling up of 1681 tentative vacancies to the post of Clerk.

11. In this regard, preliminary test was conducted on 17.07.2016 and result was published on 29.04.2017. Such of those persons who are successful in the preliminary test were permitted to participate in the (Mains) written examination, (Mains) written examination was conducted on 15.10.2017 and results were announced on 16.12.2017, the appellants were amongst 4914 successful candidates who are permitted to participate in the process of Interview. The interviews were conducted during the intervening period from 16.01.2018 to 03.02.2018 & 25.02.2018 and so also with reference to fresh additional select list of 1927 candidates, interviews were held during the intervening period



from 01.05.2018 to 08.05.2018 and 16.09.2018. The appellants were placed in the Wait List which was prepared on 26.09.2018.

12. The appellants came to know that 273 candidates who have not reported or joined service whereby vacancies occurred for the purpose of operating the Wait List. In this regard, representation was filed, since there was inaction on the part of the concerned respondent they were compelled to file writ petitions.

13. Writ petitions were disposed of on 29.09.2022 while rejecting the appellants claim, on the score that during pendency of the litigation, committee was constituted in order to examine whether Wait List for appointment to the post of Clerk in the Civil Court of the State could be considered or not? The committee has taken a decision that Wait List need not be operated. Taking note of the committee decision learned Single Judge has rejected the claim of the appellants. Hence, the present LPAs.

14. Learned counsel for the appellants vehemently contended that the post of Clerk is governed by the Rules called ***Bihar Civil Court Staff (Class III and Class IV) Rules, 2009*** (for short 'Rules, 2009') they are relying on Sub-rule 12, 13 and 14 of Rule 7 of Rules, 2009. On 15.03.2023 the following order was passed:-

“Core issue involved in the present lis is whether panel list/waiting list could be



operated for the purpose of filling up of unfilled vacancies due to non-joining of selected candidates or not? Learned Single Judge has taken note of the resolution of the Standing Committee read with the administrative notification/resolution issued in the year 2019, whereas, the present selection to the post of Class III is in terms of the Bihar Civil Court Staff (Class III and Class IV) Rules, 2009 (for short 'Rules 2009'). Sub-rule 12, 13 and 14 of Rule 7 of Rules, 2009 read as under:-

“(12) A panel of successful candidates shall be prepared on the basis of total marks obtained in written examination as also in the interview. After the selection tests (both written and oral) are over, a common panel shall be prepared by the Coordination Committee in order of merit for all the Judgeship in the State of Bihar.

(13) The aforesaid panel shall remain valid for a period of two years.

(14) The existing vacancies as also the anticipated vacancies occurring within the aforementioned period may be filled up from amongst the candidates in the said panel in order of merit.”

During pendency of the process of recruitment in terms of Rules 2009, amended Rules were notified in the year 2017. Learned Single Judge has taken note of the fact that the Standing Committee has taken a decision not to fill up the non-joining of candidates vacancies in the year 2019 and in the result he has rejected the claim of the appellants.

Learned counsel for the respondent-Court is hereby directed to secure copy of the resolution passed by the Standing Committee and formal notification/resolution/letter issued by the



*Registrar General or Registrar and to place it on record, in order to ascertain whether it has retrospective effect or not, for the reasons that process of recruitment is stated to have commenced in the year 2016 and final appointment order was issued in the month of November-December, 2018. Therefore, it is necessary to examine whether the petitioner's right is still subsisting in the light of Sub-rule 12, 13, and 14 of Rule 7 of Rules 2009 or not?
Relist this matter on 29.03.2023."*

15. Pursuant to the same Respondent No. 3 – The Convenor, Coordination Committee Patna-cum-District and Sessions Judge, Patna filed counter affidavit in which they have furnished minutes of the meeting of the Hon'ble Committee dated 31.01.2019, Agenda No. 2 is relating to the post of Clerk for consideration of their representation. In any other matter heading the committee rejected the representations of *Shri Suprabhat Kumar & Ors.* which reads as under:-

"Re: To consider the matter regarding filling up the vacant post of Clerk due to non-joining of the candidates in the Sub-ordinate Courts.

Having considered the representations of Sri Suprabhat Kumar & Ors., the Committee resolves to reject the prayer of the candidates.

The committee further resolves that any vacancy exists due to non-joining of the selected candidates would be treated as fresh vacancy would be treated as fresh vacancy for new recruitment."



16. Further, competent authority has not issued any notification which was warranted. On the other hand, there was internal communication between Registrar (Administration) to The District & Session Judge Patna-Cum-Convenor, Co-ordination Committee which reads as under:-

*“Letter No. 17053
F-IV- 80 (13a) -2015/Admn. (Misc) Section.*

Date:-19.02.2019

*ALOK KUMAR PANDEY
Registrar (Administration)
HIGH COURT OF JUDICATURE AT PATNA*

*Res.-2201926, Mob.:
9431821013 Fax No.:
0612-2504088cPh.
(Off.)P.B.X.-
2504071-73, 75 Ext-
604 2505318-19, 21
Off.- 2504394*

*To,
The District and Sessions Judge, Patna
Cum-Convenor, Co-ordination Committee.
Subject: Regarding appointment to the post of Clerk pursuant to employment notice no.-1/2016 in the Civil court of Bihar.
Sir;*

Enclosing a copy of representation received from Sri Suprabhat Kumar and others (copy enclosed) on the subject noted above, I am directed to inform you that the court have been please to resolve that any vacancy exists due to non-joining of the selected candidates would be treated as fresh vacancy for new recruitment. This is for your information and needful.

Encl. As above

*Yours faithfully,
Registrar (Admn.)”*

17. The aforementioned material does not assist the respondents. On the other hand it is contrary to Sub-rule 12, 13 and 14 of Rule 7 of Rules, 2009 which has been cited (supra). The aforementioned rules is relating to operation of Wait List or Panel shall remain valid for a period of two years and further the existing vacancies so also the anticipated vacancies occurring within the



aforementioned period may be filled up among the candidates in the set manner in order of merit. At this juncture, it is necessary to take note that final select list was notified on 29.06.2018, representation was submitted to operate Wait List against non-joining selected candidates on 05.03.2019 and writ petition was filed on 14.03.2019.

18. In the light of these facts and circumstances decisions of the committee dated 31.01.2019 and further communication by the Registrar (Administration) to the District and Session Judge, Patna dated 19.02.2019 are contrary to statutory rules cited (supra).

19. The learned Single Judge has not appreciated that statutory rule will prevail over the executive instruction/decision. Further it is to be noted that the opinion expressed by the committee is to be upheld in such an event the proper course for the concerned competent authority is to take appropriate steps to amend Sub-rule 12, 13 and 14 of Rule 7 of Rules, 2009. In the absence of amendment to Rules, 2009 that too with retrospective effect, i.e., prior to 07.02.2016 the date on which Clerk post was notified. Executive decision cannot override statutory rules. Therefore, the learned Single Judge has committed error in dismissing the writ petitions filed by the appellants.



20. Accordingly, the order of the learned Single dated 29.09.2022 passed in CWJC No. 6259 of 2019 and connected matters stands set aside. While allowing LPA No. 650 of 2022 (arising out of CWJC No. 6259 of 2019), LPA No. 657 of 2022 (arising out of CWJC No. 21219 of 2018), & LPA No. 661 of 2022 (arising out of CWJC No. 21219 of 2018) the concerned selecting/appointing authority is hereby directed to consider each of the petitioners name for the purpose of appointment to the post of Clerk against unfilled vacancies and anticipated vacancies during the relevant period of two years and necessary order of appointment shall be issued to each of the eligible petitioner within a period of three months from the date of receipt of this order. If any, of the candidate is not suitable or eligible in that event necessary speaking order shall be passed and communicated to such petitioner/s.

21. Accordingly, the LPA No. 650 of 2022 (*Prince & Ors. vs. State of Bihar through the Principal Secretary, Law Department & Ors.*); LPA No. 657 of 2022 (*Prashant Kumar & Ors. vs. State of Bihar through Chief Secretary & Ors.*); LPA No. 661 of 2022 (*Dheeraj Kumar & Ors. vs. State of Bihar through Chief Secretary & Ors.*) are allowed.



22. Accordingly, I.A. No. 2 of 2022; I.A. No. 3 of 2022 & I.A. No. 4 of 2022 in LPA No. 650 of 2022 arising out of CWJC No. 6259 of 2019 stands disposed of and I.A. No. 2 of 2022 in LPA No. 661 of 2022 arising out of CWJC No. 21219 of 2018 stands disposed of.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.05.2023
Transmission Date	NA

