

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1431 of 2023
In
Letters Patent Appeal No.549 of 2019

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Secretary, Human Resources Development Department, Government of Bihar, Patna.
5. The Director Secondary Education, Directorate of Secondary Education, Government of Patna.
6. The Joint Director Secondary Education, Directorate of Secondary Education, Government of Bihar, Patna.
7. The Divisional Commissioner, Patna.
8. The District Magistrate, Patna, District- Patna.
9. The Regional Deputy Director Education (RDDE), Patna.
10. The District Education Officer, Patna, District- Patna.
11. The District Programme Officer (Est.), Patna, District- Patna.
12. The Treasury Officer, Patna, District- Patna.

... .. Petitioner/s

Versus

1. Tarique Rasheed, S/o Late Prof. Abdur Rasheed, R/O Mohalla- New Azimabad Colony (West), Near Jame Raza Madarsa, P.O.- Mahendru, P.S.- Bahadurpur, District- Patna.
2. The Principal, Devi Prasad Chaudhary Shahid Smarak (Millar) Senior Secondary School, Bir Chand Patel Path, Patna.
3. Ratan Kumar Singh, S/o Not known to Petitioner, Head Master Rajkiyakrit Inter Vidyalaya Kishanganj, District- Kishanganj.
4. Arun Prakash, S/o Not known to Petitioner, Assistant Teacher in Devi Pad Chaudhary Shahid Smarak (Millar) Senior Secondary School, Bir Chand Patel Path, Patna.
5. Kiran Jha, W/o Not known to Petitioner, Assistant Teacher in Devi Pad Chaudhary Shahid Smarak (Millar) Senior Secondary School, Bir Chand Patel Path, Patna.
6. Gazala Tarannum, W/o Not known to Petitioner, Assistant Teacher in Devi Pad Chaudhary Shahid Smarak (Millar) Senior Secondary School, Bir Chand Patel Path, Patna.
7. Shahnaz Bano, W/o Not known to Petitioner, Assistant Teacher in Devi Pad



Chaudhary Shahid Smarak (Millar) Senior Secondary School, Bir Chand Patel Path, Patna.

8. The Accountant General, Birchand Patel Path, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ram Vinay Pd. Singh(Ac To Ga 12)

For the Opposite Party/s :

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

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

4 13-03-2024 The present MJC has been filed for recalling of the order dated 13.10.2022 passed in LPA No. 549 of 2019. It was a conditioned order. It is necessary to reproduce the order dated 13.10.2020 and it read as under:

On 07.09.2022 Interlocutory Application for condonation of delay was rejected for want of material information while imposing cost and further liberty was given to file afresh application for condonation of delay within a period of 4 weeks. In the supplementary affidavit for condonation of delay, also Para 15 is left blank. Therefore, very



*casually and carelessly,
applications are filed.*

*Hence, supplementary affidavit
on behalf of appellant No.4
relating to condonation of delay
is rejected. For the reasons that
in Para 15, it is stated as under.*

*"That the statement made
in paragraph
No..... Are true to
the best of my knowledge
and those made in
paragraph No. Are true to
the best of my information
derived from the records of
the case and rest are by
way of submission before
this Hon'ble Court."*

*It is to be noted that in stead of
filing Interlocutory Application
for condonation of delay,
supplementary affidavit has been
filed. Even on this point also
there is total non- application of
mind before filing supplementary*



affidavit. The appellant or his counsel has not read the order dated 07.09.2022.

Hence, supplementary counter affidavit dated 30.09.2022 stands rejected. Subject to payment of cost of Rs 2000/- shall be remitted in the High Court Legal Services Committee.

Finally two weeks time is granted to file Interlocutory Application for condonation of delay in filing L.P.A, failing which, L.P.A stands dismissed.

"Finally two weeks time is granted to file Interlocutory Application for condonation of delay in filing L.P.A., failing which, L.P.A. stands dismissed".

2. Thereafter, the matter was listed on 3.11.2022.

This Court passed the following order:

Mr. Apurv Kumar, learned AC to



GA-12 for the appellant-State seeks further time for compliance of the direction to pay Rs. 2,000/- in terms of order dated 13.10.2022 as also for filing limitation petition. It appears that many defects still remain unremoved. Learned counsel undertakes to remove the same and prays for some time.

2. The Court is unable to accept the plea of learned counsel for grant of further time for depositing an amount of Rs. 2,000/-, that too, when three weeks time had been granted to do the same.

3. Thus, having regard to the aforesaid, the Court is constrained to enhance the amount from Rs. 2,000/- to Rs.10,000/-. As has been directed in the order dated 13.10.2022 that Rs. 2,000/- shall be deposited in the High Court Legal Services Committee, the remaining Rs. 8,000/- shall be deposited in the Advocates' Welfare Fund of the Bihar State Bar Council.

4. At this juncture, the Court notices that while concluding the order dated



13.10.2022, it was ordered that finally two weeks time is granted to file Interlocutory Application for condonation of delay in filing LPA, failing which, LPA stands dismissed.

5. It is admitted position that no such Interlocutory Application has been filed for condonation of delay after 13.10.2022.

6. Under the circumstances, the LPA has automatically stood dismissed in terms of order dated 13.10.2022.

7. The matter be listed on 14th November, 2022, retaining its position when learned counsel for the appellants shall file affidavit showing payment of cost of Rs. 2,000/- to the High Court Legal Services Committee and Rs. 8,000/- to the Advocates' Welfare Fund of the Bihar State Bar Council.

8. For the limited purpose, the matter shall be listed as it has already stood dismissed in terms of order dated 13.10.2022.

3. In this background, question of recalling of the order dated 13.10.2022 is not warranted or cause of action has



not accrued in the light of later order dated 3.11.2023.

4. Accordingly, the present MJC stands dismissed
with cost of Rs.2000/-.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Jagdish/Ravi

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