

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.505 of 2021
In
Civil Writ Jurisdiction Case No.3954 of 2020

Sanjay Kumar Son of Akhilesh Prasad Mandal Resident of Village- Piparahi,
P.S.- Ghailadh, District- Madhepura, at present posted as the Deputy
Development Commissioner-cum- Chief Executive Officer, Zila Parishad,
Munger.

... .. Appellant

Versus

1. Smt. Dipika Kumari D/o Sri Sitaram Pandit, W/o Jitendra Pandit Resident of Village- Jinedpur, P.O.- Rajaura, P.S. Muffasil District- Begusarai.
2. The State of Bihar through the Principal Secretary Education Department, Govt. of Bihar, Patna.
3. The District Teacher Appointment Appellate Authority Munger through the Member.
4. The District Magistrate Munger.
5. The District Programme Officer (Est.) Munger.
6. The District Education Officer Munger.

... .. Respondents

Appearance :

For the Appellant	:	Mr. S.D. Yadav, Advocate
	:	Mr. Prem Ranjan Kumar, Advocate
For the Respondent	:	Mr. Ajay Kr. Rastogi (Aag10)
For Respondent No. 1	:	Mr. Birendra Nath Mishra, Advocate
For the State	:	Mr. Priyadarshi Matri Sharan, AC to AAG-15

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

8 27-08-2024

Re :- I.A. No. 01 of 2021

The present application has been filed under
Section 5 of the Limitation Act for condonation of delay of
one year and 182 days, caused in preferring the Letters
Patent Appeal.

2. Heard Mr. S.D. Yadav, learned Advocate for the
applicant, Mr. Birendra Nath Mishra, learned Advocate for



the Respondent No. 1 and Mr. Priyadarshi Matri Sharan,
learned AC to AAG-15.

3. We have considered the submissions canvassed
by the learned Advocates appearing for the parties. We have
also perused the averments made in this application. We are
of the view that applicant has shown sufficient cause for not
preferring the Appeal within the period of limitation.

4. Accordingly, this application (I.A. No. 01 of
2021) is allowed.

5. Delay of one year and 182 days, caused in
preferring the Letters Patent Appeal is hereby condoned.

Letters Patent Appeal No.505 of 2021

In

Civil Writ Jurisdiction Case No.3954 of 2020

6. The present Letters Patent Appeal has been filed
under Clause-X, Appendix-E of the Patna High Court,
Rules against the order dated 26.02.2020 in C.W.J.C. No.
3954 of 2020 passed by learned Single Judge.

7. Heard Mr. S.D. Yadav, learned Advocate for the
applicant, Mr. Birendra Nath Mishra, learned Advocate for
the Respondent No. 1 and Mr. Priyadarshi Matri Sharan,



learned AC to AAG-15.

8. Learned Advocate for the appellant would mainly contend that the present private respondent filed the writ petition before this Court in which it was the grievance of the original petitioner that the concerned original respondent authorities including the present appellant have not implemented the decision rendered by State Appellate Authority and, therefore, appropriate direction be issued for implementation of the same. It is submitted that learned Single Judge has disposed of the said petition by giving direction to the present appellant to implement the direction issued by the State Appellate Authority within stipulated time. The appellant has, therefore, preferred the present appeal.

9. Learned Advocate, at this stage, submitted that the present appellant has already challenged the direction issued by the State Appellate Authority by filing Civil Writ Jurisdiction Case No. 14914 of 2021 and the said petition is still pending before the learned Single Judge. Therefore, in the present matter, the learned Single Judge has committed an error while issuing the aforesaid direction. Learned



Advocate for the appellant, therefore, urged that the impugned order passed by the learned Single Judge be set aside.

10. On the other hand, learned Advocate appearing for the original petitioner/present respondent no. 1 has pointed out from the record that the present appellant has preferred writ petition challenging the order of the State Appellate Authority in the year 2021, i.e. much after the impugned order has been passed by the learned Single Judge. Therefore, while issuing direction in the present matter, learned Single Judge has not committed any error. Learned Advocate, therefore, urged that the present appeal may not be entertained.

11. Learned Advocate for the other official respondents has mainly contended that looking to the facts of the present case, this Court may pass appropriate order.

12. We have considered the submissions canvassed by the learned Advocates appearing for the parties. We have also perused the materials placed on record. It would emerge from the record that the present respondent no. 1/ original petitioner filed the petition before



this Court with a limited grievance that direction be issued to the concerned original respondents to implement the decision of the State Appellate Authority. It is pertinent to note that when the learned Single Judge passed the impugned order on 26.02.2020, the present appellant had not preferred any writ petition challenging the order of the State Appellate Authority. It is revealed from the record that only in the year 2021, i.e. much after the impugned order was passed by the learned Single Judge in the present matter, the present appellant has preferred the writ petition which is still pending before the concerned learned Single Judge. It is also required to be observed at this stage that while passing the impugned order, the learned Single Judge has not examined the merits of the case of the parties and as there was no challenge to the order of the State Appellate Authority, learned Single Judge thought it fit to issue direction to implement the order of the State Appellate Authority within stipulated time. We are, therefore, of the view that learned Single Judge has not committed any error while issuing the direction in the impugned order dated 26.02.2020.



13. Hence, we are not inclined to interfere with the impugned order challenged in the present appeal.

14. Accordingly, the present appeal stands dismissed.

15. However, it is clarified that we have not examined the merits of the case of the present appellant as well as the respondent and, therefore, it is open for the parties to point out all the relevant aspects before the learned Single Judge in Civil Writ Jurisdiction Case No. 14914 of 2021.

(Vipul M. Pancholi, J)

(Ramesh Chand Malviya, J)

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