

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.498 of 2022

In

Civil Writ Jurisdiction Case No.8838 of 2020

=====

Gautam Kumar Sinha, Son of G.N. Prasad Sinha, Resident of Village-Bakarpur, P.O.-Vishunpur Khebe Via Chak Sikandar, District-Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Vikas Bhawan, New Secretariat, Patna.
3. The Bihar State University Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Bihar, Patna, through its Chairman.
4. The Secretary, Bihar State University Commission, 8th Floor, Bihar School Examination Board, Academic Building, Budh Marg, Bihar, Patna,
5. The Jay Prakash University, Chapra at Saran through its Registrar.
6. The Vice Chancellor, Jay Prakash University, Chapra at Saran.
7. The Registrar, Jay Prakash University, Chapra at Saran.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Brisketu Sharan Pandey, Advocate
For the Respondent/s : Smt. Shilpa Singh, GA-12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 08-07-2024

1. Heard learned counsel for the appellant and learned counsel for the respondents.

2. The appellant has preferred this appeal against the order dated 25.2.2022 passed in CWJC no. 8838 of 2020.

I. A. no. 1 of 2022

3. The instant application has been filed praying for



condoning the delay of 172 days in filing of the appeal.

4. It is submitted by learned counsel for the appellant that the order impugned dated 25.2.2022 was received by the appellant only on 9.3.2022. The appellant sought legal opinion on the same from his advocate who after examining his file advised him to file an appeal by way of an LPA and thus, the appeal was filed on 16.9.2022.

L.P.A. No. 498 of 2022

5. So far as the case of the appellant on merits is concerned, it is submitted by learned counsel for the appellant that pursuant to an advertisement having been published by the Bihar State University Service Commission for appointment on the post of Assistant Professor, the appellant applied. The eligibility for making the application was that the applicant be a PhD. It is submitted by learned counsel for the appellant that though he had submitted his thesis for obtaining PhD on 11.9.2018, he did not get his PhD in time because of the delay caused by the University. As such, the appellant filed the writ application praying that directions be given to the respondent-Commission to make suitable corrections in the advertisement and allow the candidates of PhD who had submitted their thesis to participate in the selection process.



6. The writ application was dismissed by the learned Single Judge holding that in view of the judgment of the Hon'ble Supreme Court in the case of **Ashok Kumar Sonkar vs. The Union of India [(2007) 4 SCC 54]**, a candidate would be required to possess the eligibility as on the last date of submission of application, under the advertisement. It is against this order of the learned Single Judge that the instant application has been preferred.

7. Having heard learned counsel for the parties, this Court finds that on the point of delay in filing of the appeal and the application filed for condoning the same, against the order dated 25.2.2022, the appeal was required to be filed on or before 28.3.2022, but the same was filed after a delay of 172 days on 16.9.2022. No explanation, whatsoever, has been given for the delay of more than 5 months 15 days in filing of the appeal.

8. Even on merits of the case, it is not in dispute that the appellant was not a PhD on the last date of application against the advertisement published by the Commission for appointment on the post of Assistant Professor. The appellant thus not being eligible, the relief prayed for by the appellant that he should still be permitted to participate in the selection process is not tenable. So far as the contention of the appellant



that it was because of the University that his result of PhD got delayed, it is for the appellant to take appropriate recourse in law against the University, if so advised. Even if the contention of the appellant with respect to the University being at fault on account of the delay caused is accepted for the sake of argument, nevertheless the prayer made by the appellant in the writ application cannot be granted.

9. In view of the facts and circumstances, as stated herein above, the Court is of the opinion that the appellant has not made out a case either for condonation of delay in filing of the appeal nor of interference on the merits of the appeal.

10. Both I. A. no. 1 of 2022 filed for condonation of delay as also the appeal (LPA no. 498 of 2022) are dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

avinash/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.07.2024
Transmission Date	

