

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1560 of 2019

In
Civil Writ Jurisdiction Case No.8838 of 2012

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Reena Kumari Wife of Ravindra Kumar Rahi @ Ravindra Paswan Resident
of Village -Itawan, P.O. Gajanpur, P.S.-Paraiya, District-Gaya.

... .. Appellant/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Department of Education, Government Of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The District Programme Officer (Establishment), Gaya.
5. The Block Education (Extension) Officer, Gaya.
6. The Mukhiya, Itwan Gram Panchayat, P.S. Paraiya, District-Gaya.
7. The Member, District Teachers Appointment Appellate Authority, Gaya.
8. The Panchayat Secretary, Itwan Gram Panchayat, P.S.- Paraiya, District-Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Amarendra Kumar, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

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

4 25-01-2024 **Re: I.A. No. 1 of 2023**

The present application has been filed under Section 5
of the Limitation Act for condonation of delay of 7 years caused
in preferring the Letters Patent Appeal.

Heard Mr. Sanjay Kumar, learned counsel for the
appellant-applicant and Mr. Amarendra Kumar, learned counsel
for the respondent-State.

Learned counsel for the appellant-applicant has



referred the averments made in the memo of the application and thereafter contended that because of the financial condition of the appellant-applicant and because of her ill health, she could not file the appeal within the period of limitation. The appellant-applicant is having root case on merits and, therefore, this Court may condone the delay of 7 years caused in preferring the appeal and, thereafter, the appeal be heard on its own merits.

On the other hand, learned APP for the respondent-State has opposed this application. It is submitted that the appellant-applicant has not properly explained the delay of 7 years in the memo of the application and it is only stated that the because of the financial condition and ill health, there is delay in filing the appeal. It is further submitted that when the appellant-applicant has failed to show sufficient cause, this Court may not entertain the gross delay of 7 years in filing the appeal.

We have considered the submissions canvassed by learned counsel for the parties and we have also perused the materials placed on record, the appellant-applicant has stated in the application as under :-

4. That the delay in filing the appeal was caused due to financial backwardness of the Appellant, where he was lacking in



money for bearing the litigation cost and when the present counsel helped him out in pro-bono manner then only the present appeal was filed.

5. That also the Appellant was not keeping well and was suffering from serious health issues it was difficult for her to look after her case and also to sworn the affidavit on oath before the learned oath commissioner, because of it some more delay was caused in filing the present appeal.

In support of the averments in made in paragraph-5 that appellant-applicant was not keeping well, she has produced the prescription of the concerned doctor, copy of which is placed on Annexure- P/1 (Page 8 to 13 of the compilation). We have gone through the certificate. From the said certificate it appears that the appellant-applicant has obtained the said certificate from the concerned doctor with a view to explain the delay in the present case. It is reflected from page no. 9 of the compilation that at three places, firstly, on the top, the concerned doctor has referred the date as 31.10.2013, however, while putting the signature the date has been mentioned as 31.10.2023.



Thereafter, on the top, the doctor has stated the date as 17.02.2014, however, while putting the signature, the date is mentioned as 17.02.2023. Similarly, at the third place, at the top it is mentioned as 17.08.2014, however, while putting the signature the date is mentioned as 17.08.2023.

Thus, from the aforesaid facts, it can be said the aforesaid false certificate/medical record has been produced by the appellant-applicant with a view to explain the delay. Such type of practice is required to be deprecated.

Even otherwise, the appellant-applicant has failed to show sufficient cause for not preferring the appeal within a period of limitation and there is gross delay of 7 years in filing the appeal. We are not inclined to entertain the present application.

Accordingly, I.A. No. 1 of 2023 stands dismissed.

Since, the condonation application for filing the appeal has been dismissed, the appeal also stands dismissed.

(Vipul M. Pancholi, J)

(Rudra Prakash Mishra, J)

Alok Verma/-

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