

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.279 of 2020

In
Civil Writ Jurisdiction Case No.11208 of 2019

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Suresh Prasad Yadav son of late Dev Sharan Yadav @ Late Dev Sharan Ray
resident of Police Station- Bajpatti, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education Department, Govt. of Bihar, Patna.
3. The District Magistrate-cum- Collector-cum- District Officer, Sitamarhi.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer (Establishment), Sitamarhi.
6. The Block Development Officer, Bokhra, Prakhand- Bokhra, District- Sitamarhi.
7. The Mukhia, Gram Panchayat Bokhra, P.S.- Bajpatti, Sitamarhi.
8. The Panchayat Secretary, Gram Panchayat Bokhra, P.S.- Bajpatti, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Alok Kumar
For the Respondent/s : Mr.Prabhat Ranjan Singh, AC to AAG15
Mr.Ajay Kumar Rastogi (Aag 10)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

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

9 20-03-2025

Re:I.A. No. 01 of 2022

Heard I.A. No. 01 of 2022, there is delay about 340 days. Respondents have not filed their objections. Learned counsel for the respondents is also no objections in view of the reasons mentioned in the application for condonation of delay.

2. In the light of these facts and circumstance, the



delay of about 340 days in filing LPA stands condoned.

3. Accordingly, I.A. No. 01 of 2022 is allowed.

4. With the consent of learned counsels for the respective parties, the present LPA is taken up for final disposal.

5. Core issue involved in the present *lis* is belated agitating the right of the appellant insofar as selection and appointment to the post of Physical Teacher. He had a cause of action to approach the concerned Appellate Authority on 01.11.2008 as is evident from the records. On the other hand, he had approached the Appellate Authority in the year 2015. The appellant has opened his eyes to agitate his right after lapse of about 7 years that too in respect of selection and appointment to the post of Physical Teacher. Hon'ble Supreme Court in the case of **P.S. Sadasivaswamy vs. State of Tamil Nadu** reported in **AIR 1974 SC 2271** in which it is held that belated litigation insofar as right of third party crystallised cannot be examined. Further, in the case of **Vijay Kumar Kaul Vs. Union of India** reported in **(2012) 7SCC 610** also the Hon'ble Supreme Court held that belated litigations wherever third party right is created cannot be examined. In the present case to accommodate appellant to the post of Physical Teacher one has to make way and he has not been arrayed as party. Such third party must have



been working for more than decade from 01.11.2008, if the date of appeal is taken into consideration, namely, Appeal Case No. 40 of 2015.

6. In the light of these facts and circumstances, the appellant has not made out a case so as to interfere with the order learned Single Judge dated 18.06.2019 passed in CWJC No. 11208 of 2019.

7. Accordingly, the present LPA No. 279 of 2020 stands dismissed.

8. Pending Interlocutory Application(s), if any, stand disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Sinha, J)

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