

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.95 of 2021

In
Civil Writ Jurisdiction Case No.11124 of 2014

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1. The State of Bihar.
 2. The Principal Secretary, Education, Bihar, Patna.
 3. The Director, the Secondary Education, Bihar, Patna.
 4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
 5. The District Education Officer, Sheohar.
 6. The District Programme Officer, (Establishment), Sheohar.
 7. The Principal, Nabab High School, Sheohar cum Drawing and Disbursing Officer, Sheohar.

... .. Appellant/s

Versus

Md. Serajuddin son of Late Abdul Jalil resident of Village Saidpur Ganesh,
P.S. Bidupur, District Vaishali (Hajipur).

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sarvesh Singh, AAG-13
For the Respondent/s : Mr. Madhukar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL ORDER

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

7 16-04-2025

Re: I.A. No. 01 of 2021

Appellants have assailed the order of the learned
Single Judge dated 01.11.2018 passed in CWJC No. 11124 of
2014, there is a delay of about 2 years and 57 days. It is
necessary to reproduce para 1 to 8 of condonation of delay
application and it reads as under:-

“1. That this present Interlocutory



Application is being filed for condoning the delay of 650 days in filing the instant Memo of Appeal.

2. That the impugned order was passed by the Hon'ble Single Judge on 01.11.2018 and a certified copy of the same was sent thereafter. On the same legal opinion was subsequently sought.

3. That it is stated that due to official transaction of business for obtaining necessary approval and legal advice, the instant memo of appeal has not been preferred within stipulated period and same is being preferred now to meet the ends of justice in the fact and circumstances of the case.

4. That it is stated that the State authorities have not delayed the matter knowingly and deliberately rather the same is circumstantial in view of facts as stated above.

5. That the appellants State have an impersonal existence and decision has to be taken at different levels, horizontal & vertical. The appellant State has a bureaucratic set up and as such the consultation at different levels took some time, resulting in delay in filing the present Letters Patent Appeal.

6. That it is respectfully submitted that the appellants have the prima facie case and as such the instant matter may be heard on merits.

7. That this petition is being filed bonafide and is in the interest of justice and no



prejudice shall be caused to the respondent if the present appeal is heard on its merit.

8. That the appellants have not filed any other Interlocutory Application for condonation of delay in the present matter.”

2. There is no attestation insofar as mentioning 650 days delay in the first paragraph by manual writing. In the second paragraph, there is no indication in which CWJC the learned Single Judge has passed order on 01.11.2018, similarly, in para 8 there is no signature or attestation to manually entering 650 days delay, except these things not even *iota* of dates and events as to why there is delay of 2 years and 57 days in filing LPA No. 95 of 2021.

3. It is shocking that in LPA I.A. for condonation of delay application filed on behalf of State in this manner, the learned advocate on record on behalf of the State for not advising department to rectify or redrafting with all necessary particulars. In fact, learned counsel for the appellant Mr. Sarvesh Singh, submitted that I.A. for condonation of delay application and affidavit are prepared by the department officials. If the department officials have committed error or mistake in drafting, in that event, learned counsel for the appellant being a legal advisor to this case should have apprised



the department officials to the extent that this is not the way of filing I.A. for condonation of delay. On the other hand, whatever the materials furnished by the department officials, the same has been filed in the registry. Resultantly, there is a loss to the State exchequer in filing this type of litigation on behalf of the State.

4. The Hon'ble Supreme Court in the case of **State of Madhya Pradesh Vs. Ramkumar Choudhary** reported in **2024 SCC Online SC 3612** read with **H.Guruswamy and others Vs. A. Krishnaiah** reported in **2025 SCC Online SC 54** elaborately considered filing of belated litigation both by the State as well as individual and deprecated. In fact, cost of Rs. one lakh has been ordered in the case of **State of Madhya Pradesh Vs. Ramkumar Choudhary** reported in **2024 SCC Online SC 3612**.

5. In light of principle laid down by the Hon'ble Supreme Court in the aforementioned decision, appellant – State have not made out a case so as to condone the enormous delay of about 2 years and 57 days in filing LPA No. 95 of 2021. Having regard to the pleadings in the I.A. for condonation of delay and it is hopelessly prepared and filed, cost is warranted and it is quantified at Rs. 1,00,000/- cost shall be paid by the State appellant department to the **Lawyer's Association welfare**



Benevolent Fund having **Bank Account No. 7801893276**,
within a period of three months from today. Resultantly, I.A.
No. 01 of 2021 for Condonation of delay stands dismissed.

7. Resultantly, LPA No. 95 of 2021 stands dismissed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Ankit Kumar/-

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