2026:AHC:227759-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL DEFECTIVE No. - 601 of 2026

Durgesh Kumar Singh

.....Appellant(s)

Versus

Arvind Singh And 5 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Kushmondeya Shahi, Tanuj Shahi
Counsel for Respondent(s)	:	Ashish Goyal, C.S.C.

Court No. - 39

HON'BLE SAUMITRA DAYAL SINGH, J.
HON'BLE SWARUPAMA CHATURVEDI, J.

Civil Misc. Delay Condonation Application No. 01 of 2026 and Civil Misc. (Leave to Appeal) Application No. 02 of 2026

1. Heard Sri Tanuj Shahi, learned counsel for the applicant/appellant seeking leave to appeal, Sri Ashish Goyal, learned counsel for the petitioner/respondent and Sri Arimardan Singh Rajpoot, learned Additional Chief Standing Counsel for the State.

2. Present leave to appeal has been sought against order of learned single judge dated 22.04.2026 in **Arvind Singh Vs. State of U.P. And 4 Others, 2026:AHC:89763**.

3. By that order, learned single judge has disposed of the writ petition with a direction upon the D.I.O.S. to decide the claim of the petitioner (in that writ petition) for appointment on Class-III post at Sri Rajendra Singh Intermediate College, Lehni Kusmha, Kushinagar.

4. Grievance of the applicant/appellant is - he was neither impleaded as party respondent in the writ petition nor the petitioner disclosed to the writ Court the fact of earlier writ petition being Writ A No. 4002 of 2025 filed by him, is pending, wherein similar relief had been sought wherein, the present appellant had intervened.

5. In view of the above, cause shown is sufficient. Delay is condoned. Delay condonation application is **allowed**.

6. Ground for grant of leave to appeal is sufficient. Accordingly, leave to appeal is granted.

Order on Appeal

7. Upon hearing learned counsel for the parties, we may note that two writ petitions have been filed by the petitioner/respondent. In the first writ petition being Writ A No. 4002 of 2025, he had prayed for the following relief:-

> *"I. Issue a writ, order or direction in the nature of Mandamus directing the respondent respondents no. 4 and 5 to finalized the process of fill up the vacancy of Assistant clerk in the college of Sri Rajendra Singh Intermediate Collage, Lehni-Kusmha, Kushinagar Kushinagar in pursuance of the Government notification letter no. 2058/15-05-2021-1600(359)/2014 dated 25.11.2021, within stipulated period of time as fixed by this Hon'ble Court."*

8. In that, the appellant filed an Impleadment Application No. 2 of 2025. It was allowed by order dated 15.05.2025. The writ petition remained pending.

9. During pendency of the first writ petition, the petitioner/respondent filed Writ A No. 5769 of 2026 again without impleading the appellant. This time by means of prayer no. 2, the petitioner prayed as below:-

> *"II. Issue a writ, order or direction in the nature of Mandamus directing the respondent authorities to decide the representation of the petitioner dated 30.12.2025, same is still' pending before them, in which the petitioner prayed to finalized the process of fill-up the vacancy of Assistant Clerk, in the college of Sri Rajendra Singh Intermediate Collage, Lehni- Kusmha, Kushinagar in pursuance of the order dated 08.09.2025 passed by Additional Chief Secretary, Lucknow, within stipulated period of time as fixed by this Hon'ble Court."*

10. Plainly, the material prayer made in the second writ petition, is the same as the main prayer in the first writ petition.

11. Though learned counsel for the petitioner/respondent would contend that

fresh cause of action had arisen occasioned by order dated 08.09.2025 passed by Additional Chief Secretary, Lucknow, we find that the said document may only be a document that may be relied for the main relief sought *i.e.* for appointment, in the first writ petition filed by the respondent. However, it did not give rise to a second cause of action.

12. In that light, we also notice there is absolutely no recital in the second writ petition, about the institution or pendency of the first writ petition, filed by the respondent.

13. Plainly that fact may have been concealed from the Court.

14. The order of learned single judge is **set aside** as error on principle has been forced in the proceedings occasioned by the conduct attributable to the petitioner/respondent. In view of the above, the appeal is **allowed**. The writ petition is restored to its original number and status.

15. Let writ petitions being Writ A Nos. 4002 of 2025 and 5769 of 2026 be tagged and listed before the appropriate bench in the week commencing 23.11.2026.

16. Let a copy of this order be placed in the record of the writ petitions.

(Swarupama Chaturvedi,J.) (Saumitra Dayal Singh,J.)

November 2, 2026

#Vikram/-

Digitally signed by :-
VIKRAM GUPTA
High Court of Judicature at Allahabad