

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.586 of 2015
IN
Civil Writ Jurisdiction Case No. 19388 of 2014

Dr. S. M. Ali Imam
..... Appellant/s
Versus
The Lalit Narayan Mithila University & Ors
..... Respondent/s
WITH

Miscellaneous Jurisdiction Case No. 841 of 2015
IN
LPA 586 of 2015

1. Dr. S. M. Ali Imam, son of Late S.M. Zareef, Secretary of the S.M. Zaheer Alam Teachers Teachers Training College, P.S. + P.O.- Bahera, District-Darbhangha (Bihar).
..... Petitioner/s
Versus
1. The Lalit Narayan Mithila University, Darbhanga.
2. Dr. Shaket Kumar Kudwaha, the Vice Chancellor of the Lalit Narayan Mithila University, Darbhanga.
3. Dr. Ajit Kumar Singh, the Registrar of the Lalit Narayan Mithila University, Darbhanga.
4. Dr. Kulanand Yadav, the Controller of Examination, Lalit Narayan Mithila University, Darbhanga.
..... Respondent/s

Appearance :
(In LPA No. 586 of 2015)

For the Appellant/s : Mr. Sarvadeo Singh, Advocate.
Mr. Sanjay Kumar, Advocate.
For the Respondent/s : Mr. Chandra Mohan Singh

(In MJC No. 841 of 2015)

For the Petitioner/s : Mr. Mr. Sarvadeo Singh, Advocate.
For the Respondent/s : Mr. Mr. yugal Kishore, Sr. Advocate.
Mr. S.N. Pathak, Advocate.
For the Intervenor: Mr. Jai Prakash Verma, Advocate.

CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE I. A. ANSARI)
Date: 27-08-2015

Heard Mr. Sarva Deo Singh, learned Counsel appearing on behalf of the appellant, and Mr. Yugal Kishore, learned Senior Counsel, appearing on behalf of the University.

2. The appellant, in the present appeal, under Clause 10 of the Letters Patent of this High Court, is aggrieved by the order, dated 20.03.2015, passed by learned single Judge in CWJC No. 19388 of 2014, whereby the writ application, filed by the appellant, under Article 226 of the Constitution of India, has been dismissed.

3. Learned counsel, appearing on behalf of the appellant, has drawn our attention to paragraph 30 of the Division Bench decision, dated 04.08.2014, passed in LPA No. 394 of 2014, in order to contend that the letter, dated 20.10.2014 (Annexure-1 to the writ petition) and the notification, dated 22.10.2014 (Annexure-2 to the writ petition), issued under the signature of Controller of examination of Lalit Narayan Mithila University, Darbhanga, which were under challenge in writ proceedings, were issued in violation of the direction of Division Bench of this Court in its order, dated 04.08.2014. Through letter, dated 20.10.2014, written by the Controller of Examination, addressed to the Principal, S.M. Zaheer Alam Teachers Training College, Bahera, Darbhanga, a list of students, admitted in the College for B.Ed. Course for the session 2014-2015 sent by the Principal, was returned on the ground of there being dispute over validity of affiliation and management of the College. The press

communiqué is also to the same effect.

4. Learned single Judge has dismissed the writ application observing that there being family dispute over management of the institution, in question, the matter is required to be decided by a Civil Court of competent jurisdiction and accordingly dismissed the writ application.

5. Learned counsel, appearing on behalf of the appellant, submits that the order passed by learned single Judge under appeal is against the spirit of the decision of the Division Bench as contained in the order, dated 04.08.2014, passed in LPA No.394 of 2014.

6. Contempt application bearing MJC No. 841 of 2015 has been filed on behalf of the appellant alleging disobedience of this Court's order, dated 31.03.2015. A show-cause reply has been filed on behalf of the Controller of Examination of the University, LNMU, Darbhanga, stating therein that the said letter, dated 20.10.2014, and the press communiqué, dated 23.10.2014, have not been given effect to and the students of the institution have been allowed to fill up the application forms and appear in the concerned examination.

7. The Controller of Examination of the University has also tendered unqualified apology for issuing the said letter, dated 20.10.2014, and the press communiqué, dated 23.10.2014, which are in apparent breach of the Division Bench decision of this Court as contained in Annexure-16, dated 04.08.2014, paragraphs 30 to 35 of

which read as follows:

"30. Coupled with the above, what cannot be ignored and must not be ignored is that the order, dated 27.01.2014, cannot be read independent of the order, dated 14.02.2014, and if read together, the order, dated 14.02.2014, allows the appellant, in L.P.A. No. 411 of 2014, namely, S. M. Ali Imam, to continue to function as the Secretary of the said Society pending adjudication of the dispute by a civil court of competent jurisdiction. Could such an order be passed by Inspector General Registration?

31. Turning to the question as to whether, Section 13 of the Societies Registration Act, 1860, applies to a case of present nature, it may be pointed out that a careful and cautious reading of Section 13 of the Societies Registration Act, 1860, makes it transparent that a dispute, as to whether a Governing Body, represented by a person, is or is not the genuine Governing Body, does not fall, within the competence of the Inspector General Registration, Bihar, for adjudication.

32. To the case at hand, Section 13 of the Societies of Registration Act has no application

inasmuch as Section 13 comes into play, when there is dissolution of a Society and there is a dispute with regard to adjudication of the affairs of the Society following its dissolution or in connection with its dissolution.

33. In other words, to the case at hand, Section 13 of the Societies of Registration Act, 1860, has no application inasmuch as Section 13 of the Societies of Registration Act, 1860, comes into play, when there is dissolution of a Society and there is a dispute with regard to adjudication of the affairs of the Society following its dissolution or in connection with its dissolution. A dispute, as to whether a Governing Body, represented by a person, is or is not the genuine Governing Body, does not fall, within the competence of the Inspector General Registration, Bihar, to adjudicate.

34. Considered in the light of what have been pointed out above, Inspector General Registration did not have the power to decide the dispute, which needed adjudication by a civil court of competent jurisdiction. One cannot, however, ignore and must bear in mind that by order, dated 04.10.2012, passed in *the first writ petition*, S. M. Zafar Imam was allowed to

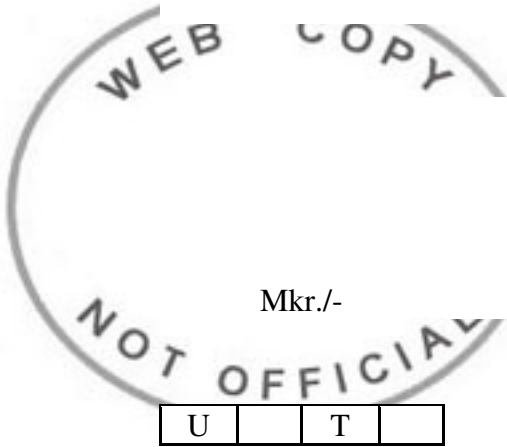
operate the bank account of the said Society maintained at the said branch of Central Bank of India. Until, therefore, a civil court of competent jurisdiction decides the question, which has been repeatedly raised by S. M. Ali Imam, as regards the genuineness of the Governing Body represented by S. M. Zafar Imam, as Secretary of the said Society, cannot be encouraged and must be given a quietus.

35. Consequently, until the time a civil court of competent jurisdiction decides otherwise or passes any interim order otherwise, it is S. M. Zafar Imam, who shall be allowed to represent the said Society.”

8. The letter, dated 20.10.2014, issued by the Controller of Examination of the University and subsequent notification, dated 23.10.2014, issued by the Controller of the Examination of the University, are accordingly quashed being in breach of specific direction of this Court’s order passed by Division Bench as quoted above. The University is directed to publish the result of the students, who have appeared at the examination. Accordingly, the order, under appeal, dated 20.03.2015, passed by learned Single Judge in CWJC No. 19388 of 2014, is set aside. CWJC No. 19388 of 2014 is allowed with the direction as above.

9. Miscellaneous Jurisdiction Case No. 841 of 2015

stands closed.



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(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)