

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1278 of 2014

IN

Civil Writ Jurisdiction Case No. 22243 of 2013

With

Interlocutory Application No. 7000 of 2014

And

Interlocutory Application No. 7001 of 2014

In

Letters Patent Appeal No.1278 of 2014

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Birendra Kumar S/o Late Saudagar Prasad Yadav Presently working as Professor
Incharge, Chandrakala Brahmdeo Lohiya Karpoori Inter College, Bariyarpur,
Munger.

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Director, Secondary Education, Education Department, Govt. of Bihar,
Patna
4. The District Magistrate, Munger
5. The Sub Divisional Magistrate, Munger
6. The District Education Officer, Munger
7. The Chairman, Bihar School Examination Board (Senior Secondary), Bihar,
Patna
8. The Secretary, Bihar School Examination Board (Senior Secondary), Bihar,
Patna
9. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
10. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur

..... Respondents-Respondents

11. Mani Bhushan Prasad Singh, son of late Deoki Nandan Singh, resident of
Mohalla Lallu Pokhar, PS Kotwali, District Munger, presently working as
Incharge Principal, Chandrakala Brahmdeo Lohiya Karpoori College,
Bariyarpur, Munger

....Petitioner-Respondent

12. Dr. Dev Raj Suman, S/o late Bhagwat Prasad Yadav, resident of Gandhipur,
PO & PS Bariyarpur, District Munger

.... Respondent- Respondents

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Appearance :

For the Appellant/s : Mr. Aditya Prakash Sahay, Advocate
For the State : Mr. Rajesh Kumar, AC to GP 10
For Respondent no. 11 : Ms. Archana Meenakshi
For Respondent nos. 9 and 10: Mr. Rajendra Kumar Giri, Sr. Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE I. A. ANSARI
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 09-01-2015

I A No. 7000 of 2014

This application under Section 5 of the Limitation Act is filed with a prayer to condone the delay of 72 days in preferring the present Letters Patent Appeal.

We are satisfied with the reasons assigned for condonation of the delay in preferring the appeal. Delay is condoned.

I A No. 7000 of 2014 stands disposed of.

Letters Patent Appeal No. 1278 of 2014

This appeal is preferred by the respondent no.12 in CWJC No. 22243 of 2013 feeling aggrieved by the order dated 21.1.2014 passed therein by the learned Single Judge. The facts relevant for the purpose of disposal of this appeal are as under.

An educational institution was established after the name of Late Chandrakala Brahmdeo Lohiya Karpoori, at Bariyarpur, in the district of Munger. Intermediate course as well as the degree course are said to have been running in this college. The appellant contends that an Intermediate College, after the same name is functioning and that it is different from the degree college, i.e. the 12th respondent.



The degree course was disaffiliated by the University. As regards the right to run the intermediate course, a dispute exists between the petitioner on the one hand and the 12th respondent on the other hand. The Bihar State School Examination Board, 7th respondent herein, passed an order dated 18.10.2013 recognizing the appellant herein as the agency to run the inter college. On the basis of that, the appellant issued a notification in the press also. Challenging the said notification as well as the order dated 18.10.2013, the 11th respondent filed CWJC No. 22243 of 2013.

After hearing the learned counsel for the parties at some length the learned Single Judge disposed of the writ petition through the impugned order dated 21.1.2014, directing that the Board shall receive the forms and fees that may be submitted by both the parties. A further direction was that after the examination is conducted and results are declared, it shall not entertain either of the parties till they get appropriate declaration from a civil court as to their status, identity or a right of recognition as a body. The said order passed by the learned Single Judge is challenged in this appeal.

We, have heard Sri Aditya Prakash Sahay, learned counsel for the appellant and Ms. Archana Meenakshi, learned counsel for the respondents, in detail.

The challenge in the writ petition was specifically to the order dated 18.10.2013 passed by the 7th respondent as well as the consequential notification issued by the 12th respondent therein. We find from the order of the learned Single Judge, that the question as to the validity of the said order was not addressed at all. As long as the said order stands, the appellant gets a semblance of a right, at least to administer the institution though it is not any proprietary right in respect of the institution. It appears that the learned Single Judge was

mostly concerned about the ensuing examination and permitted both the parties to submit the examination forms, and to pay the fees lest the students suffer. Though, no exception can be taken to that, the issue relating to the validity of the order dated 18.10.2013 needs to be dealt with.

We, therefore, dispose of the appeal remanding the matter to the learned Single Judge, to be heard; by treating the order under appeal as interim measure, to the extent of directing the 7th respondent to receive the forms and fees submitted by both the parties.

The question as to the validity of the order dated 18.10.2013, shall be dealt with at the stage of final hearing of the writ petition. After the examination, the appellant herein shall be entitled to take necessary steps for running of the institution without claiming any absolute right over the institution. We further direct that the appellant shall not be entitled to raise any objection for grant, or restoration of affiliation to the degree college.

All Interlocutory Applications stand disposed of.

(L. Narasimha Reddy,CJ)

(I. A. Ansari, J)

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