

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1611 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 8620 of 2016

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1. Lok Manya Bal Gangadhar Tilak, Degree College, Buxar through its Governing Body represented hereby the Secretary, Narendra Prasad Rai, Police Station - Buxar, District - Buxar.
 2. Narendra Prasad Rai, son of Late Bishwanath Rai, resident of Charitraban, Buxar, P.S. and District - Buxar, Secretary, Lok Manya Bal Gangadhar Tilak Degree College, Buxar.

.... Appellants

Versus

1. The State of Bihar.
2. The Principal Secretary, Higher Education, Human Resources Department, Government of Bihar, Patna.
3. Veer Kunwar Singh University, Ara through its Registrar.
4. The Vice Chancellor, Veer Kunwar Singh University, Arrah, P.S. Arrah, District - Bhojpur at Arrah.
5. The Registrar, Veer Kunwar Singh University, Arrah, P.S. Arrah, District - Bhojpur at Arrah.
6. Dr. Narbadeshwar Rai, son of Late Jagdish Rai, resident of village and Post Office - Dianman, Police Station - Krishnabrahm, District - Buxar.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. P. K. Shahi, Sr. Advocate.
Mr. Girish Prasad Sharma, Advocate.
For the State : Mr. Niraj Kumar, AC to GA-10.
For the University : Mr. P. K. Verma, Sr. Advocate.
Mr. Arbind Nath Pandey, Advocate.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 28-11-2016

The order dated 04.08.2016 passed by the learned Single Bench is the subject matter of challenge in the present Letters Patent Appeal. Learned Single Bench has recorded two findings. First that the appellant has used certain forged documents which fact stands established from an affidavit of District Welfare Officer,

Buxar and, secondly, that the appellant is a privately managed institution and not an affiliated college, therefore not entitled to any direction from this Court.

The learned counsel for the appellant points out that the second finding was modified by the learned Single Bench on 06th of September, 2016. But in respect of the first finding, learned counsel for the appellant points out that not only the appellant has received the letter (Annexure-2) issued by the District Welfare Officer, but the University has also received the letter. Therefore, to say that the letter (Annexure-2) is forged document is not sustainable. It is, in fact, argued that the said District Welfare Officer has changed his stand many times in other cases also.

We find as to whether the letter (Annexure-2) was issued by the District Welfare Officer, Buxar on the date mentioned therein or not, is a disputed question of fact. Such disputed question of fact can be examined by the Civil Court where the appellant can produce hand-writing expert and/or the postal record of the department etc. to prove that such letter (Annexure-2) was issued by the said District Welfare Officer or otherwise.

In view of the said fact, the present Letters Patent Appeal is disposed of, but with the observation that any finding recorded therein is only for the purpose of relegating the appellant to

the remedy of the Civil Court and that Civil Court shall be free to take independent decision on merits in accordance with law.

Consequently, the present Letters Patent Appeal stands disposed of.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Mishra

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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