

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1164 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 4230 of 2015**

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The Managing Committee Sardar Patel High School, Balbhadrapur, P.O. Balaur,
P.S. Kurhni, District - Muzaffarpur through its Chairman

.... Appellant

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Development Department Govt. of Bihar, Patna
3. The Director Secondary Education, Bihar, Patna
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur
5. The District Magistrate, Muzaffarpur
6. The District Education Officer, Muzaffarpur
7. The District Programme Officer (Estt.), Muzaffarpur

.... Respondents

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Appearance :

For the Appellant : Mr. Bipin Kumar, Advocate.

For the Respondents : Mr. Nadeem Seraj, G.P. 20.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 04-05-2016

Re.: I.A. No. 4868 of 2015

The application is for condonation of delay of four days in
filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellant has shown sufficient cause to seek condonation of delay of four days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 4868 of 2015 is allowed and delay of four days in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 1164 of 2015

Heard learned counsel for the parties.

2. The order dated 23rd of March, 2015 passed by the learned Single Bench of this Court in C.W.J.C. No. 4230 of 2015 is subject matter of challenge in the present Letters Patent Appeal. In the writ application, the challenge to the order dated 3rd of May, 2013 passed by the Director, Secondary Education remained unsuccessful.

3. A Public Interest Litigation was filed bearing C.W.J.C. No. 1402 of 2013 (Chathu Prasad Singh & Anr. Vs. The State of Bihar & Ors.) for a direction to upgrade Sardar Patel High School, Balbhadrapur, Kurhni, Muzaffarpur so that unprivileged students of the locality have access to the basic human rights. In such writ application, an affidavit was filed by the District Education Officer indicating that a spot inquiry was conducted and it was found that the appellant school is in dilapidated condition and no education is

imparted and that District Education Officer has made a recommendation to cancel the code allotted to the appellant school. It is thereafter, on 3rd of May, 2013, the impugned order as in the writ application was passed.

4. Learned counsel for the appellant has vehemently argued that the stop inspection was conducted at the back of the appellant and that the order dated 3rd of May, 2013 has been passed without giving any opportunity of hearing to the appellant.

5. We find the contention of the appellant to be meritorious. An order which affects the civil rights including such a right to run educational institution cannot be passed without giving opportunity of hearing to the affected persons. Since such an order was passed without giving any opportunity of hearing to the appellant, we find that the action of withdrawal of the approval to establish the school is unjustified.

6. Therefore, we order that the communications dated 3rd of May, 2013 will be treated as the show-cause notice to the appellant. The appellant may submit its response to the said show-cause notice in respect of infrastructure available etc. within 30 days from today to the Director, Secondary Education. After considering the reply filed, the competent authority shall proceed to pass an appropriate order in accordance with law.

7. The Letters Patent Appeal stands disposed of accordingly.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.
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