

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1492 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 4355 of 2015

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Smt. Pratima Singh, Wife of Shri Parmanand Pandey, Resident of Mohalla -
Laxminarayan Nagar, Bela, P.O. - Ram Krishna Ashram, Bela, P.S. - Mithanpura,
District - Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Director, Integrated Child Development Services, Department of Social Welfare, Government of Bihar, Patna.
4. The District Magistrate, Muzaffarpur.
5. The District Public Relation Officer, Muzaffarpur.
6. Shree Amar Nath Mishra, Joint Secretary, Department of Social Welfare, Government of Bihar, Patna. null null
7. The Special Secretary, Department of Social Welfare, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Binod Kumar Singh
Ms.Vagisha Pragya

For the Respondent/s : Mr.

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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: 20-04-2016

The present Letters Patent Appeal is directed against the

following order dated 29.06.2013 passed by the learned Single Bench

in CWJC No. 4355 of 2015:-

“Let the matters be listed after four weeks i.e., on 27th of July, 2015.

In the meantime, the disciplinary authority will do the needful in the matter in view of the stage reached in the departmental proceeding.”

The challenge in the writ petition is to the disciplinary proceeding initiated against the appellant, primarily on two grounds, i.e., the authority who has issued charge-sheet is not competent authority and that the enquiry officer is biased against the appellant.

The question of bias will arise only after the conclusion of the disciplinary proceeding and not when the proceedings are pending before the enquiry officer. The question of jurisdiction would be examined by the learned Single Judge. The order passed by the learned Single Judge is an interlocutory order without affecting any right of the parties and only observing that the disciplinary authority will do the needful in the matter. What is said is obvious that there is no interim order of stay of departmental proceedings.

In terms of the Supreme Court judgment in the case of **E.R.M.C.Mine Planning & Design Institute Ltd. Vs. Union of India (AIR 2001 SC 883)**, an appeal is maintainable only against a judgment. It is held to the following effect :-

“14. In the instant case, we are concerned with the last mentioned category. From the above discussion, it follows that to determine the question whether an interlocutory order passed by one judge of a High Court falls within the meaning of ‘judgment’ for purposes of Letters Patent the test is: whether the order is a final determination affecting vital and valuable rights and obligations of the parties concerned., This has to be ascertained on the facts of each case.”

We do not find that the impugned order in the present Letters Patent Appeal affects vital and valuable rights of the appellant which may entitle him to invoke the intra-Court appellate jurisdiction. The order is to the effect that there shall not be any stay of departmental proceedings.

We do not find any merit in this appeal which is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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