

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2249 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 9230 of 2016**

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1. Dr. B. R. Ambedkar College of Education, Bodh Gaya through its Secretary, Brajendra Kumar Chaubey, aged about 43 years, S/o Shri Ram Ekbal Chaubey, Resident of Village/Mohalla- Domuhan, P.O.+P.S.- Bodh Gaya, District- Gaya.
 2. Brilliant Institute of Education, Gaya Dobhi Road, Bazaura, Gaya, through its Secretary, Bimal Kumar, Aged about 43 years, S/o Late Prem Kumar Singh, Resident of Village/Mohalla- Shahi Compound, Lakhi Bag, P.O.- Buniyadganj Manpur, P.S.- Mufassil, District- Gaya.
 3. Gyan Prakash College of Education at Chiraila, P.O.- Kharhari, District- Gaya through its Joint Secretary-cum-Treasurer, Rajesh Ranjan Sahay, aged about 43 years, S/o Girish Lal, Resident of Village/Mohalla- Shanti Villa, Bahuar Chaure, P.O.- Gaya, P.S.- Vishnupad, District- Gaya.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
3. The Under Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
4. Magadh University, Bodh Gaya through its Registrar.
5. The Vice Chancellor, Magadh University, Bodh Gaya.
6. The Registrar, Magadh University, Bodh Gaya.
7. The National Council for Teacher Education, Eastern Regional Committee, 15, Neelkantha Nagar, Nayapalli, Bhubaneswar (Orissa) through its Regional Director.
8. Magadh College of Education, Dubhal, Gaya, through its Secretary, Sanjeev Kumar, aged about 35 years, S/o Ram Naresh Sharma, Resident of Village/Mohalla- New Area Nutan Nagar, P.O.- Gaya, P.S.- Civil Line, District- Gaya.
9. Sant Maalik Memorial Institute through its Secretary, Shiv Ranjan, aged about 43 years, S/o Manoranjan Prasad Singh, Resident of Village/Mohalla- Swarajpuri Road, Gaya, P.O.- Gaya, P.S.- Kotwali, District- Gaya.

.... Respondent/s

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Appearance :

For the Appellant s : Mr. Arun Kumar, Advocate
For the N.C.T.E. : Mr. S.N. Pathak, Advocate
For the State : Mr. Amrendra Kumar, A.C. to AAG-15
For Magadh University : Mr. Vipin Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-04-2017

Seeking exception to an order dated 15.11.2016 passed by the learned Writ Court in C.W.J.C. No. 9230 of 2016, the writ petition has been filed and on a perusal of the order passed by the Writ Court, we find that the writ petition is still pending. The Writ Court has only directed for inspection of the Institute in question, which is imparting education in B.Ed. Course and has called for an Inspection Report.

2. A decision was taken by the Chief Secretary of the State of Bihar on 15.05.2016 whereby he directed all the District Magistrates and the Superintendent of Police to conduct inspection of B.Ed. College and submit a report. Challenging this communication, the writ petition in question was filed and it was primarily the case of the appellants that under the National Council for Teachers Education Act, 1993 the Council is empowered to take action in the matter. The State Government is only empowered to issue N.O.C. and it cannot direct for any inspection to be conducted in the manner done.

3. The learned Writ Court in a detailed order running to more than 19 pages went into various aspects of the matter, the illegalities being committed by various colleges, the power vested with the National Council for Teachers Education, the law laid down by a Division Bench of this Court in the case of **State of Rajasthan**



Vs. LBS B.Ed College- A.I.R. 2016 Supreme Court 4428, the observations of the Apex Court and in paragraphs 12 to 15 took note of the legal position and observed as under:-

“21. In view of the above it will not be the District Magistrates or the Superintendent of Police who are going to conduct inspection of these institutions but inspection of these institutions are going to be conducted by the team which has been put in place by virtue of the order passed by the Court.”

4. Thereafter it was the considered opinion of the learned Writ Court that the National Council for Teachers Education is required to perform the statutory duties as a nodal agent but on several occasions grievance of the institutes are that the N.C.T.E. is not conducting the inspection within time and, therefore, there is delay in obtaining approval and affiliation. Accordingly, taking note of various aspects of the matter in Paragraph 18 the learned Writ Court found that with a view to cut down the time, the N.C.T.E. was directed to constitute an Inspection Team which should include one nominee of the University or the Examination Board as may be nominated by the Vice Chancellor of the University or the Chairman of the Examination Board not below the rank of Senior Professor and one nominee of the District Magistrate not below the rank of Additional Collector to conduct inspection and submit a report to the



Court.

5. The objection of the appellants are that the Committee constituted by the Writ Court which includes a nominee of the University or the Examination Board or the District Magistrate is contrary to law and is impermissible. However, from Paragraphs 18 to 20 onwards the learned Writ Court has found that this has become necessary to expedite the inspection and call for report and has also taken note of various illegalities in the institute based on which the Chief Secretary had directed for inspection. The Writ Court after constituting the team had directed them to inspect the institute and complete the inspection by 21st of March, 2017 and submit a report. The Writ Petition is till pending and the action on the Inspection Report is yet to be taken by the learned Writ Court. At this stage, when the matter is subjudice before the Writ Court, merely because an Inspection Team has been constituted by the Writ Court, we see no reason to make any interference into the matter. The reasons that weighed with the Writ Court and the discretion exercised by the learned Writ Court in directing for constitution of the Committee is a reasonable one.

6. In the background of the facts and circumstances, we see no ground to make any indulgence into the matter. Accordingly, for the present, at this interlocutory stage when only an Inspection



Team is constituted and action is anticipated, we are not inclined to interfere into the matter.

7. The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

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