

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1012 of 2014

In

Civil Writ Jurisdiction Case No.23530 of 2013

=====

Danish Yazdani, Son of Late Md. Sibgatullah, resident of Village- Harihans,
P.S.- Hussainganj, District- Siwan through his legal guardian mother namely
Soghra Khatoo, wife of late Md. Sibgatullah, resident of Village- Harihans,
P.S.- Hussainganj, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. The District Education Officer, Siwan, District- Siwan.
3. The Headmaster of the Suryavansh High School, Bishwaniya, P.S.- Darauli,
District- Siwan.
4. The Secretary of the Bihar School Examination Board, Patna- 17

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Sarvdeo Singh, Advocate
For the State : Mr. Pratik Kumar Sinha, A.C. to G.A. V
For the BSEB : Mr. Ranjeet Singh, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-12-2017

Seeking exception to an order passed by the
learned Writ Court on 10.03.2014 in C.W.J.C. No. 25350 of



2013 this appeal has been filed under Clause 10 of the Letters Patent.

In the matter of order passed by the Chairman, Bihar School Examination Board by which the candidature of the appellant in the Bihar School Examination conducted was cancelled on account of producing a false and fabricated transfer certificate and thereby manipulating the date of birth the writ petition in question has been dismissed and the following orders have been passed by the learned Writ Court:-

“Heard counsel for the petitioner and counsel for the Examination Board as well as private respondent.

There are many controversial facts for which not only oral but documentary evidence is required to be taken to give the benefit of doubt to the petitioner with regard to the stand he has taken about the authenticity or the so-called ex parte enquiry which was held against him by the District Education Officer, Siwan.

Petitioner is free to file a suit, get a declaration of his liking but for that an appropriate opportunity of leading evidence by both sides will be given and the same cannot be decided by way of a summary proceeding under Article 226 of the Constitution of India.

Prima facie the Court is satisfied that there was material and reasons which have been



indicated by the Chairman of the Bihar School Examination Board to pass an order dated 26.2.2014. However, the finding given therein will not stand in the way of the appropriate Civil Court in coming to a contrary conclusion if such evidence does emerge in such a proceeding.

Writ application is dismissed with liberty as above.”

Having heard learned counsel for the parties at length, we find that with regard to certain criminal offence committed by the appellant in the matter of poring acid on a young minor girl criminal case is pending against the appellant and in the said case there is a dispute as to whether the appellant comes within the definition and purview of juvenile under the Juvenile Justice (Care and Protection of Children) Act, 2000.

That apart, in the ex parte inquiry conducted against the appellant by the District Education Officer, various disputed questions of facts are involved which compelled the learned Writ Court to direct the appellant to take recourse to the remedy of filing a suit.

In our considered view, in the peculiar facts and circumstances of this case, the discretion exercised by the learned Writ Court in not interfering with the matter cannot be termed as perverse or illegal to such an extent that



reconsideration is required to be made in these proceedings.

The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	23.12.2017
Transmission Date	

