

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.130 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 20605 of 2012
Alongwith
Interlocutory Application No. 460 of 2016

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Shree Niwas Singh, Son of Late Hazari Singh, Acting Headmaster, Project Girls High School Nokha, Police Station Nokha, District – Rohtas.

.... Appellant

Versus

1. The State of Bihar, through its Principal Secretary, Human Resources Development Department, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Intermediate Council, Budh Marg, Patna.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The District Education Officer, Rohtas District – Rohtas.

.... Respondents

with

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Letters Patent Appeal No. 546 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 11630 of 2012
Alongwith
Interlocutory Application No. 2394 of 2016

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Onkar Nath Dubeydi, Son of Shree Basant Kumar Dubey, Acting Headmaster, Project Girls High School, Ramsahar, Police Station- Barahara, District- Bhojpur.

.... Appellant

Versus

1. The State of Bihar, through its Principal Secretary, Department of Education, New Secretariat, Vikas Bhawan, Patna.
2. The Principal Secretary, Department of Education, New Secretariat, Vikas Bhawan, Patna.
3. The Director (Secondary Education), Department of Education, New Secretariat, Vikas Bhawan, Patna.
4. The Regional Deputy Director of Education, Patna Division, Patna.
5. The District Education Officer, Bhojpur.

.... Respondents

with



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Letters Patent Appeal No. 128 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 23272 of 2012
Alongwith
Interlocutory Application No. 461 of 2016

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Ravi Bhushan Singh, Son of Shree Markandey Singh, R/O Village+ Post+P.S. Brahmpur, District-Buxar, Acting Headmaster, Project Girls High School, Brahmpur, District-Buxar.

.... Appellant

Versus

1. The State of Bihar, through its Principal Secretary, Human Resources Development, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Director (Secondary Education), Human Resources Development Department, Bihar Secondary Education Office, Budh Marg, Patna-1.
3. The Regional Deputy Director of Education, Patna Division, Patna.
4. The District Education Officer, Buxar.
5. The Three-man Committee constituted in term of the judgment and order dated 03.01.2006 passed by the Hon'ble Supreme Court in Civil Appeal No. 6625-76 of 2001 through the then convener Shree Anup Kumar Sinha, Human Resources Development Department, New Secretariat, Patna.
6. Shree Anup Kumar Sinha, Son of name not known, the then Convener, Three Man Committee (the respondent no. 5) Human Resources Development Department, New Secretariat, Patna, the then Secretary, Bihar School Examination Board, Patna-17.
7. Shree Raghubansh Kumar, Son of name not known the then member, Three Man Committee (the respondent no. 5), Department of Human Resources Development, New Secretariat, Vikas Bhawan, Patna, the then Director (Educational), Bihar School Examination Board, Sinha Library Road, Patna.

.... Respondents/Respondents

with

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Letters Patent Appeal No. 1288 of 2015
IN
Civil Writ Jurisdiction Case No. 11699 of 2012

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Shailendra Kumar Ojha, S/o Shree Hridayanand Ojha, Acting Headmaster, Project Girls High School Chand, Police Station Chand, District Kaimur.

.... Appellant

Versus

1. The State of Bihar through its Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Vikas Bhawan, Patna.
3. The Director (Secondary Education) Department of Education, Bihar Secondary



- Education Office, Budh Marg, Patna.
4. The Deputy Director (Secondary Education), Incharge Project School, Education Department, Bihar Secondary Education Office, Budh Marg, Patna.
 5. The Regional Deputy Director of Education, Patna Division, Patna.
 6. The District Education Officer, Kaimur.

.... Respondents

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Appearance :

(In LPA No.130 of 2016)

For the Appellant : Mr. Jai Prakash Verma, Advocate.

For the Respondents : Mr. Amit Bhushan, A.C. to G.P. 17.

(In LPA No.546 of 2016)

For the Appellant : Mr. Jai Prakash Verma, Advocate.

For the Respondents : Mr. Maruth Nath Roy, A.C. to S.C. 4 and Mr. Arvind Ujjwal, S.C. S.C. 4.

(In LPA No.128 of 2016)

For the Appellant : Mr. Jai Prakash Verma, Advocate.

For the Respondents : Mr. Anjani Kumar, A.A.G. 6.

(In LPA No.1288 of 2015)

For the Appellant : M/S. Bijay Kumar Pandey, Anpurna and Jai Prakash Verma, Advocates.

For the Respondents : Mr. Anjani Kumar, A.A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date: 08.04.2017

Re. : I.A. No. 460 of 2016 in L.P.A. No. 130 of 2016, I.A. No. 2394 of 2016 in L.P.A. No. 546 of 2016 and I.A. No. 461 of 2016 in L.P.A. No. 128 of 2016.

The delay in filing the aforesaid three Letters Patent Appeals is condoned. Accordingly, the aforesaid Interlocutory Applications are disposed of.

All these Letters Patent Appeals are directed against the order dated 22.05.2015 passed by the learned Single Bench in CWJC No. 10872 of 2010 and analogous cases, by which a batch of writ applications including the writ applications filed on behalf of the appellants, have been dismissed.



The material facts leading to these Letters Patent Appeals are similar and the 'grounds' for challenge, taken therein are almost identical, therefore, they have been heard together and are being disposed of, by this common order.

Shorn of unnecessary details, the relevant facts necessary for adjudication of these Letters Patent Appeals are, in brief, discussed separately, hereunder:

Re.: L.P.A. No. 130 of 2016

In this Letters Patent Appeal, the challenge is made to the order dated 22.05.2015 passed in CWJC No. 20605 of 2012. The appellants filed a writ petition bearing CWJC No. 20605 of 2012 before this Court, seeking quashing of the order dated 19.04.2010 contained in Memo No. 133 issued from the office of respondent no.2 Director (Secondary Education), Government of Bihar, Patna, by which the claim of the appellants and others Teaching/Non-teaching Staffs as to recognize their services, has been rejected. The case of the appellants before the learned Single Bench was that the local people of Nokha Block Headquarter and its adjacent area convened a meeting on 15.10.1984 and decided to establish a Girls High School at Nokha Block Headquarter, District-Rohtas, accordingly, the School in question came to be established by a duly constituted School Managing Committee. The appellants besides others teaching staffs were appointed by the said Managing Committee on different dates, accordingly, they



made their joining and since the date of joining they have been serving the posts and performing their duties. The District Education Officer, Rohtas, vide letter dated 05.06.2003 sent a check list of Teaching and Non-Teaching Staff of the concerned School to the Additional Director, Secondary Education, Bihar, Patna. It was contended that as to examine the issue of recognition of services of Teaching and Non-Teaching Staff of such Schools, the Hon'ble Supreme Court issued direction upon the Chief Secretary, Government of Bihar, in Civil Appeal No. 6626-75/2001 vide order dated 03.01.2006, as to constitute a Three Man Committee for ascertainment of existence of the School, and with regard to the claim of Teaching and Non-Teaching Staff, working in the School. Accordingly Three Man Committee was constituted by the Chief Secretary, which examined the 'issue' in respect of Project Girls High School, Nokha, and rejected the claim of the appellants besides others as to recognize their services on the ground that the said School was being run by the State Government and the case of the appellants being appointed by the School Managing Committee is baseless. The appellants made representation before the Director, Secondary Education, Bihar, Patna, which came to be rejected vide office order contained in Memo No. 133 dated 19.04.2010, issued under the signature of Director, Secondary Education, Government of Bihar, Patna. That being the main challenge, before the learned Single Judge.



The respondent no.2 filed counter affidavit in the matter, contending therein that in pursuance to the direction of the Hon'ble Supreme Court, a Three Man Committee was constituted vide Memo No. 41 (P) dated 09.03.2006, which examined the claim of the Institutions, as also, the appellants besides others, granting opportunity of hearing to the aggrieved persons including the appellants and thereafter found and held that the School in question was directly established and being run by the State Government, therefore, the claims of the appellants and others being appointed by the School Managing Committee was baseless, thus did not recommend for recognition of services of the appellants. It was also contended that the Three Man District Level Committee, constituted much earlier headed by the District Magistrate, had not made selection of any such School in Nokha Block, which might have been established and was being run by the School Managing Committee, and in the year 1989 no project report was sent by the Additional Director of Education with regard to the School, for the purposes of recognition of the services of Teaching and Non-Teaching Staff, appointed by the School Managing Committee.

Re.:L.P.A. No. 546 of 2016

In this Letters Patent Appeal, the challenge is made to the order dated 22.05.2015 passed in CWJC No. 11630 of 2012. The appellant filed a writ petition bearing CWJC No. 11630 of



2012 before this Court, seeking quashing of the order contained in Memo No. 139 (P) dated 19.04.2010 issued under the signature of Respondent No. 3 the Director (Secondary Education), Human Resource Development Department, Government of Bihar, Patna, by which the claim of the appellant as to recognize his services besides others Teaching and Non-Teaching Staff, who being appointed by the School Managing Committee of Project Girls High School, Ramshahar, District- Bhojpur, has been rejected on the ground that the School was being run directly by the State Government. The case of the appellant before the Writ Court was that the local people of village Ramshahar and adjacent villages convened a meeting and decided to establish a Girls High School at village Ramshahar as to eradicate the educational backwardness of the girls of the locality. Accordingly, a Girls High School was established by a duly constituted School Managing Committee. The appellant besides others were came to be appointed and joined on different dates, thereafter, have been serving the posts and discharging their duties. The appellant contended that he was appointed on 02.12.1983 and joined the post on 02.01.1984 as a Sanskrit Teacher and has been continuously working. The further case of the appellant was that in pursuance to the order for payment of salary to the Teaching and Non-Teaching Staff with effect from 01.01.1989, they were not paid salary, rather the said order was confined to the Teaching and Non-Teaching Staff of the



Project High School, selected by the State Government in the Financial Year 1981-82. The District Education Officer, Bhojpur vide letter dated 03.01.2000, sent a check list of Teaching and Non-Teaching Staffs, working in the School after making inspection of the School, to the Director (Secondary Education), Bihar, Patna. The matter as to recognize the Institute and the services of Teaching and Non-Teaching Staff of the Project High School, travelled up to Hon'ble Supreme Court and in pursuance to the direction of the Hon'ble Supreme Court vide judgment dated 03.01.2006 passed in Civil Appeal Nos. 6626-75/2001, the Chief Secretary, the State of Bihar, constituted a Three Man Committee for examining the individual claim of the Teaching and Non-Teaching Staff for recognition of their services. The said Three Man Committee submitted its report that the School was being run by the State Government, thus rejected the claim of the appellant and other Teaching and Non-Teaching Staff. Thereafter the appellant made representation before the Director (Secondary Education), Bihar, Patna, on 03.02.2009, whereupon the matter was placed before the Principal Secretary, Department of Human Resource Development, who directed the Deputy Director of Education to examine the matter again but the claim of the appellant was rejected vide order dated 19.04.2010, impugned there under.

A counter affidavit has been filed on behalf of the State



Respondents, contending therein that the School in question was not established and being run by the Managing Committee and it was directly established by the State Government. The Three Man Committee did not make recommendation for recognition of services of Teaching and Non-Teaching Staff of the School in question, accordingly, their claim was rejected vide Memo No. 778 (P) dated 24.09.2008 and the representation of the appellant made thereafter before the Director, Secondary Education, Bihar, Patna, came to be rejected vide Memo No. 139 (P) dated 19.04.2010, taking into consideration the department's letter no. 1069 dated 27.08.1993, where under the name of the Project Schools of different category were sent to the Bihar School Examination Board, Patna. In the said list, the School in question i.e. Project Girls High School, Ramshahar, Bhojpur, is mentioned as the Project School which was directly established and run by the Government, therefore, considering all the relevant facts, the claim of the appellant had been rejected by the Director, Secondary Education, Bihar, Patna.

Re.: L.P.A. No. 128 of 2016

In this Letters Patent Appeal, the challenge is made to the order dated 22.05.2015 passed in CWJC No. 23272 of 2012. The appellant filed a writ petition bearing CWJC No. 23272 of 2012, seeking quashing of the order contained in Memo No. 138 (P) Patna dated 19.04.2010 issued by the Respondent No.2



Director (Secondary Education), Government of Bihar, by which the claim, as to recognize the services of the appellant and others Teaching and Non-teaching staff of the Project Girls High School, Brahmpur, Buxar, being appointed by the School Management Committee, has been rejected.

The case of the appellant before the learned Single Bench was that the local people of Brahmpur Block Headquarter and its adjacent convened a general meeting and took a decision to establish a Girls High School in Block Headquarter on 02.10.1983. Accordingly, a duly constituted Managing Committee of the School made appointment of Teaching and Non-Teaching Staff on different date, who made their joining, including the appellant and have been serving the posts and discharging their duties. It is also contended that Three Man Committee headed by the District Magistrate selected the School. The appellant came to be appointed on the post of Civics Teacher and joined the post on 16.01.1989. It was also contended that the District Education Officer, Bhojpur, inspected the School and prepared the report and sent it to the Director (Secondary Education), Bihar on 03.01.1996.

In view of the decision rendered in Civil Appeal No. 6625-75 of 2001, the Chief Secretary, Government of Bihar, constituted Three Man Committee as to ascertain the existence of the Project Schools and to consider the individual claims of the



Teaching and Non-teaching staffs, which rejected the claim of the petitioner as to recognize his services on the ground that the School in question being established and run by the State Government. The appellant filed representation before the Director (Secondary Education), Bihar, which came to be rejected vide Memo No. 137 (P) dated 19.04.2010 on the ground that the School was established and was being run by the State Government, thus the contention of the appellant being appointed by School Managing Committee is baseless.

The respondent no.2 filed counter affidavit before the Writ Court, contending therein that the matter is concerned with the Project Girls School of 1984-85 Phase, the issue relating to recognition of Schools by the State Government, and the services of Teaching and Non-teaching staffs travelled up to the Hon'ble Supreme Court in Civil Appeal Nos. 6626-6675/2001 and vide order dated 03.01.2006, the Hon'ble Apex Court directed the Chief Secretary, State of Bihar to constitute Three Man Committee as to scrutinize the claim of the Institution as the Teaching and Non-teaching staffs and the said had to make report to the Chief Secretary, who in turn, had to place the report before the appropriate authority with his comments in terms of the 'Rule of the Executive Business' and thereafter appropriate decision was to be taken by the competent authority. The Three Man Committee found and held that the School in question was not established and



run by the State Government rather it was directly established and was being run by the State Government, therefore, the claim of the appellant and others Teaching and Non-Teaching Staff of being appointed by the so-called Managing Committee is baseless and accordingly, the claim of the appellant besides others as to recognize their services came to be rejected vide Memo No. 138 (P) dated 19.04.2010. Way back in the year 1989 the Human Resources Development Department vide letter no. 142 dated 4th February, 1989 issued a direction in terms of the Government decision to the Director (Secondary Education) regarding the recognition of Institutions, as also the services of the Teaching and Non-teaching staffs being appointed by the Managing Committee.

After receiving the recommendation of Three Man Committee, the department placed the matter before the Cabinet of Ministers for approval and thereafter Notification vide No. 52 dated 19.02.2009 issued about the selected Project Schools of both types i.e. the Schools directly established by the State Government and the School established by the Managing Committee and selected by the District Level Three Man Committee. The School in question i.e. Project Girls High School, Brahmpur (Buxar) is notified as the School, already established by the Government. After proper consideration of the facts, the order under challenge dated 19.04.2010 came to be passed.

Re.: L.P.A. No. 1288 of 2015



In this Letters Patent Appeal, the challenge is made to the order dated 22.05.2015 passed in CWJC No. 11699 of 2012. The appellant filed CWJC No. 11699 of 2012 before this Court, seeking quashing of the order contained in Memo No. 704 (P) Patna dated 26.08.2008 passed by the Respondent No.3 the Director (Secondary Education), Government of Bihar, by which the claim of the appellant besides others Teaching and Non-teaching staffs of being appointed by the Managing Committee and for recognition of their services in Project Girls High School, Chand, District- Kaimur and to grant all consequential benefits, has been rejected.

It was contended by the appellant that the local people of Chand Block Headquarter took a decision to establish a Girls High School and also constituted a Managing Committee in the style of Girls High School, Chand, the Managing Committee of the School made appointment of Teaching and Non-teaching staffs on different dates, accordingly, they made their joining and have been serving the posts and discharging their duties.

The dispute relating to recognition of Institution as also the services of the Teaching and Non-teaching staffs and payment of their salary travelled up to the Hon'ble Supreme Court. The District Education Officer, Rohtas, had sent a report on 02.07.1999 regarding the status of the School along with check list of Teaching and Non-teaching staffs. The Hon'ble Supreme Court



vide judgment dated 03.01.2006 directed the Chief Secretary of the State of Bihar, to constitute a Three Man Committee as to ascertain the existence of the Schools and to examine the individual claim of the Teaching and Non-teaching staffs for recognition of their services, whereupon, the Three Man Committee examined the matter and rejected the claim of the appellant and other Teaching and Non-teaching staffs regarding recognition of their services.

The State respondents filed counter affidavit in the matter contending therein that vide Letter No. 1069 dated 27.08.1993, list of Project Schools were sent to the Bihar School Examination Board, in which the School in question i.e. the Project Girls High School, Chand, is mentioned as being established and run by the State Government. In pursuance to the direction of the Hon'ble Supreme Court a Three Man Committee was constituted by the Chief Secretary, which examined the matter and found that the School in question was not established and run by the Managing Committee rather directly established and run by the State Government, therefore, the claim of the appellant being appointed by the School Managing Committee is baseless.

Before coming to the issue, involved in these matters, we must take notice of the decision rendered by the Hon'ble Supreme Court, vide judgment dated 03.01.2006, in the case of State of Bihar and others –VS- Project Uchh Vidya, Shikshak Sangh,



reported in (2006) 2 SCC 545 held as under:

“Even if there is no dispute as regard number of schools, in view of the stand taken by the State and particularly in view of the fact that it appears from the records that recognition of the school, if any, had wrongly been granted to some schools where building were also not completed or the process of selection was not over. It may be necessary for the State to have a further look in the matter.”

“It is further more necessary to scrutinize as to whether the teaching and non-teaching staffs appointed for the said purpose fulfill the criteria in terms of the policy decision of the State or not. Their qualification laid down under other relevant statute for the purpose of obtaining permission must also be scrutinized.”

“Having said so, we must observe that the ultimate decision must be left at the hands of the State. In view of the Cabinet decision dated 25.01.2000, 300 schools are said to have been recognized. We have however our doubts as to whether all correct facts have been placed before the Cabinet or not particularly in view of the fact that many of the schools which were



established in Chhotanagpur and Santhal Pargana are now in the State of Jharkhand. We have pondered over the matter but we are not very sure as to whether apart from the schools, which had been identified by the Three Man Committee and admittedly recognized by the State, any final decision had been taken as regards the recognition or otherwise of the remaining schools of the appropriate authority.”

We find that the Hon'ble Supreme Court further directed the Chief Secretary of the State of Bihar to constitute a Three Man Committee, which was also directed to submit a report before the Chief Secretary within three months, after scrutinizing the claims of the Institutions and the Teaching and Non-teaching Staffs. The Apex Court further directed that on getting the report, the Chief Secretary shall place the report before the appropriate authority with his comments in terms of the 'Rules of the Executive Business' and the said authority was been directed to take appropriate decision within four months. Accordingly, a Three Man Committee was constituted vide Memo No. 41 (P) dated 09.03.2006, for the purpose of examining the existence of such Project Schools and also for the purpose of examining the individual grievances of the Teaching and Non-teaching staffs of the Project Schools, relating to recognition of their services.



From the perusal of the records, it appears that the Three Man Committee before scrutinizing the issue of existence of Project Schools and of recognition of services of Teaching and Non-teaching staffs of such Schools, had decided certain norms. On careful examination and scrutiny, the Committee found that certain School was directly established and being run by the State Government and there was no such substantive proof that it was initially established and run by the Managing Committee and thereafter selected as a Project School by the District Level Three Man Committee headed by the concerned District Magistrate. When the criteria determined for recognition of services of Teaching and Non-teaching staff were not found to be fulfilled, the claim was rejected by the orders under challenge in writ petitions. Against the finding of the Three Man Committee, a recourse was also available to the Teaching and Non-teaching staffs, who were not satisfied with the order of the department, as to move before the Director (Secondary Education), Bihar and the Director was in turn required to decide the individual claims regarding the recognition of services after obtaining necessary order of the government. Accordingly, the representations made by the appellants, after due consideration, came to be rejected by the Director, because the appellants did not bring such substantive documents, which may dislodge the finding recorded by the Three Man Committee to the effect that the Schools in question were



directly established and being run by the State Government.

With such back grounds, the appellants approached this Court filing writ petitions impugning the respective orders rejecting their claims for recognition of their services in the Project Schools.

The learned Single Bench while passing the order under challenge, in writ applications, as referred above, of the appellants, has also discussed the facts and 'issue' of the cases separately and thereafter has recorded its finding.

From perusal of the order under challenge, we find that the learned Single Bench considering the report of Three Man Committee constituted in terms of the order of the Hon'ble Supreme Court and the decision taken by the State Government, and finding no such document on record being brought by the appellants which may dislodge the finding of the Three Man Committee, and the impugned decision of the State Government based thereon, held that the writ petitions filed by the appellants were devoid of merit and dismissed the same, which necessitates these Letters Patent Appeal.

We are of the view that the 'issue' raised under these Letters Patent Appeals and the plea made in support thereof are purely based on a disputed question of facts i.e. whether the appellants were appointed by the Managing Committee of respective Schools and serving the posts by discharging their



duties when the respective Schools were selected by the District Level Three Man Committee headed by the District Magistrate, as a Project High School.

In the case of Union of India Vs. H.C. Goel AIR 1964 SC 364, the Hon'ble Supreme Court observed as under:

“In exercising its jurisdiction under Article 226 on such a plea, the High Court can not consider the question about the sufficiency or adequacy of evidence in support of particular conclusion. This is matter which is within the competence of the authority which deals with the question, but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing of evidence. It will take the evidence as it stands and only examine whether on that evidence illegally (sic legally) the impugned conclusion follows or not”.

In the case of Provincial Transport Services Vs. Industrial Court, Nagpur AIR 1963 SC 114, the Supreme Court



observed thus:

“The High Court is not a court of appeal and cannot enter into sufficiency, adequacy or otherwise of the evidence before the authority. At the same time, however, a student should not be punished nor his career be Jeopardised only on the basis of suspicions surmises and conjectures without there being any evidence worth the name. In my opinion, in this case, there is no evidence whatsoever which has some probative value in the eyes of law and merely on the basis of suspicions that the impugned action is taken by the Respondent Board which is arbitrary, irrational, perverse and no reasonable man in the facts and circumstances of the case would reach to the conclusion and, therefore, it is required to be interfered with in exercise of power under Article 226 of the Constitution of India.”

The Hon'ble Supreme Court in the case of Raghuwar Mandal Vs. The State of Bihar, AIR 1957 SC 810 observed that the Supreme Court while hearing appeal under Article 136, does not interfere with the findings of fact recorded by inferior Tribunals on consideration of evidence unless they are perverse or based on no evidence.



In the case of D.L.F. House Construction (P) Ltd. Vs. Delhi Municipal Corporation, AIR 1976 SC 386, the Supreme Court observed that judicial review of administrative actions may be on question of fact, law or discretion. Where the basic facts are disputed and complicated question of law and fact depending on evidence are involved, Writ Court is not the proper forum for seeking relief.

We are also of the view that while exercising jurisdiction under Article 226 of the Constitution of India, High Court cannot convert itself into a court of appeal and consider the question of sufficiency and adequacy of evidence in support of a finding of fact arrived at by a competent authority and the issue purely based on a disputed question of fact cannot be adjudicated in a writ proceeding. If the procedure of a suit has to be adhered in the case of writ petition, the entire purpose of having a quick and inexpensive remedy would be defeated. A writ petition under Article 226 is necessarily different from a suit and it would be improper to follow the procedure of a suit into the proceedings of a petition under Article 226. High Court is not expected to convert itself into a fact finding authority or a court of first instance, in cases where seriously disputed question of fact or mixed question of fact and law are involved.



In view of the foregoing discussions and observations, we find no valid reason to interfere with the order under challenge, passed by the learned Single Bench.

These Letters Patent Appeal are, accordingly, dismissed.

(Sudhir Singh, J)

(Rajendra Menon,CJ) I agree.

(Rajendra Menon, CJ)

U.K./-

AFR/NAFR	AFR
CAV DATE	24.03.2017.
Uploading Date	11.04.2017.
Transmission Date	

