

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1620 of 2017

Arising out of

M.J.C. No. 3127 of 2016

Achal Kumar Jha, son of Late Tarini Jha, at present working as Secretary of Managing Committee of Vikramshila Vaidic Sanskrit High School, Sultanganj, Bhagalpur, District- Bhagalpur

... .. Appellant/s

Versus

1. Shashidhar Jha, son of Sri Sita Ram Jha, Resident of Village- Daodarpur, P.O. Rannuchak, P.S. Akbarnagar, District- Bhagalpur
2. Shankardeo Mishra, son of Late Bindhyeshwa Mishra, Resident of Village and P.O. Sultanganj, in front of Bari Post Office, P.S. Sultanganj, District- Bhagalpur
3. Premlata Devi, wife of Sri Vinod Chaudhary, Resident of Village- Maheshi, P.O. Tilakpur, P.S. Sultanganj, District- Bhagalpur
4. Indrakant Jha, son of Late Surendra Jha, Resident of Village/Mohalla- Krishnagarh, Sultanganj, P.O. and P.S. Sultanganj, District- Bhagalpur
5. The State of Bihar through Principal Secretary Education Department, Government, Bihar, Patna namely G.S. Gangwar, son of not known to petitioners.
6. Rajeev Prasad Singh Ranjan, son of not known to petitioner, the Director, Secondary Education, Education Department, Government of Bihar, Patna
7. P.N. Mishra, son of not known to petitioner, the Special Director, Secondary Education, Education Department, Government of Bihar, Patna
8. Phool Babu Chaudhary, son of not known to petitioner, the District Education Officer, Bhagalpur
9. The Bihar Sanskrit Shiksha Board, Patna through its Secretary namely Milind Kumar Sinha, son of not known to the petitioner
10. Prakash Nand Mishra, son of not known to the petitioner, the Chairman, Bihar Sanskrit Shiksha Board, Patna
11. Govind Chandra Jha, son of Late Dinamber Jha, the Headmaster, Vikramshila Vaidic Sanskrit High School, Sultanganj, Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Durga Nand Jha, Advocate
For O.P Nos.1 to 4	:	Mr. Tej Bahadur Singh, Sr. Advocate
		Mrs. Shashi Priya Pathak, Advocate
For Respondent No. 7	:	Mr. P.K. Shahi, Sr. Advocate
		Mr. Vikas Kumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-12-2017



Grievance of the appellant in this Letters Patent Appeal is that while passing order on 15.11.2017 in M.J.C. No. 3127 of 2016 it has been observed that in case the appellant herein is not complying or is creating hindrance in implementation of an order passed by the High Court and is not acceding to the request made by the District Education Officer, it is ordered by the Writ Court that it could be an occasion to replace the appellant who is Secretary by the District Education Officer.

It is the grievance of the appellant that he has cogent and justifiable reason for not complying with the direction of the District Education Officer and without considering his grievances the order passed for his replacement will adversely affect him, will amount to passing a fresh direction in the contempt proceedings, this could not be done without hearing him and, therefore, he has filed this appeal and in support of his contention places reliance on a judgment of the Supreme Court in the case of **Midnapore People's Coop. Bank Ltd. And others. Vs. Chunilal Nanda and others- (2006) 5 SCC 399** to say that against the fresh direction issued, the L.P.A. is maintainable.

Taking note of the nature of the controversy



involved in the matter, we are of the considered view that interest of justice would be made in case compliance with the order passed on 15.11.2017 in M.J.C. No. 3127 of 2016 is directed to be kept in abeyance, the appellant appear before the learned Contempt Court and file his affidavit indicating the justification for his action and we request the Contempt Court to consider the same and thereafter proceed in accordance with law. The appellant shall file his say in the matter before the Contempt Court by 19th of December, 2017.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	18.12.2017
Transmission Date	

