

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1351 of 2016

=====

Babban Rai @ Babban Yadav, son of late Janki Rai, resident of village and
P.O. Ararmore, P.S. Gopalganj, District Gopalganj

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The District Magistrate, Siwan
4. The Bihar School Examination Board, through its Chairman, Budha Marg, Patna
5. The Secretary, Bihar School Examination Board, through its Chairman, Budha Marg, Patna
6. Ram Kripal Yadav, son of late Dharichhan Choudhary, resident of village Rampur, P.S. Barharia, District Siwan

.... Respondents

=====

Appearance :

For the Appellant/s : Mr. Ramadhar Shekhar, Adv.
For the Respondent/s : Mr. Manish Kumar
For respondent no.6 : Mr. Bajarangi Lal, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

18 28-08-2018

Re: I.A. No. 6248 of 2016

This interlocutory application has been filed for
condonation of delay of 54 days in filing the appeal.

Having heard learned Counsel for the parties we are
persuaded by the reasons assigned to condone the delay. The delay
is condoned.

I.A. No. 6248 of 2016 is allowed.

Re: L.P.A. 1351 of 2016

We have heard learned Counsel for the parties and have



perused the judgment and order passed by the learned Single Judge in CWJC No. 18297 of 2015, whereby in consideration of the issue raised, learned Single Judge after refusing the exercise of jurisdiction under Article 226 of the Constitution of India, has afforded liberty to the appellant to seek his remedy elsewhere and through the process of the Civil Court for a declaration as a donor member.

We take note of the order put to challenge before the Writ Court which is passed by the Chairman, Bihar School Examination Board, whereby three persons have been named donor members leaving out the petitioner and which has aggrieved him. According to the writ petitioner, he needs to be declared a donor member of the institution.

Mr. Manish Kumar, learned State Counsel, has invited the attention of this Court to a statutory Rule framed by the State Government, namely, “बिहार अनुदानित शिक्षण संस्थान प्राधिकार नियमावली, 2015” and in reference thereto he submit that even though the learned Single Judge has granted liberty to the petitioner to exhaust the remedy of the Civil Court, the petitioner has an additional remedy before the authority so constituted under the Rules and he can well espouse his grievance before the said authority.



In the nature of the liberty granted by the learned Single Judge, we are certainly not persuaded to interfere therewith especially where an alternative remedy is available to the petitioner for espousing his grievance and he can well avail the same.

With the observation aforementioned, the appeal is dismissed.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

Archana/Surendra

U			
---	--	--	--

