

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.1606 of 2016

Chandra Prabha D/o Sri Tarak Nath Singh Resident of Village - Derni, P.O. -
Sutihar, P.S. - Derni, District Saran.

... .. Plaintiff/Respondent No.1/Petitioner
Versus

1. The Bihar Rajya Arya Pratinidhi Sabha, through its honorary Sabha Mantri having its office at Shri Munishwara Nand Bhawan, Naya Tola, P.S. Pirbahore, District Patna.
2. Sri Ramendra Kumar Gupta, Sabha Mantri of Bihar Rajya Arya Pratinidhi Sabha, having office at Shri Munishwara Nand Bhawan, Naya Tola, P.S. Pirbahore, District Patna.

... ..Defendants/Respondents/Opposite Parties

3. The Principal, Dayanand Kanya Vidyalaya, Mithapur, P.S. - Jakkanpur, District - Patna.
4. The Chairman, School Managing Committee, Dayanand Kanya Vidyalaya, Mithapur, P.S. - Jakkanpur, District Patna.
5. The Secretary, School Managing Committee, Dayanand Kanya Vidyalaya, Mithapur, P.S. - Jakkanpur, District Patna.

... ..Defendant/Appellants/Opposite Parties

Appearance :

For the Petitioner	:	Mr. Digvijay Narayan Singh, Advocate Mr. Raj Kamal, Advocate
For the Respondents	:	Mr. Rajeev Kumar Singh, Advocate Mr. Mukesh Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 18-12-2018 Heard both sides.

The petitioner has filed this civil miscellaneous petition against the order dated 16.08.2016, passed by the learned Additional District Judge-VIII, Patna in Title Appeal No.94 of 2012 whereby the learned Additional Judge rejected the petition of the petitioner for amendment of the plaint and add relief 1A.

The petitioner is the plaintiff and respondent in Title Appeal No.94 of 2012. The petitioner filed Title Suit No.35/27



of 1998 for declaration of suspension and termination order passed by the Ad hoc Managing Committee of the school against the plaintiff as illegal, without jurisdiction, inoperative and *void ab initio*. The suit was allowed. The school preferred appeal. During pendency of the appeal, the petitioner filed petition for amendment in the relief portion of the plaint after para 1 and to add para 1A, which reads as follows:-

On adjudication that the suspension and termination of the plaintiff as illegal and without jurisdiction, and further be declared that the plaintiff is entitled to have reinstated on the post where she was working and further entitled to salary and other consequential benefit pendente lite and future but the learned Additional District Judge rejected the petition holding that the plaintiff has not filed any appeal or cross appeal and the amendment sought for in the plaint may change the nature of the suit and may also create jurisdictional problem by enhancement of suit value.

Learned counsel for the petitioner submits that the amendment is of formal nature. The relief sought for is consequential as after setting aside or holding the suspension or termination of the petitioner as illegal, the petitioner is entitled to get consequential relief of reinstatement and salary during the period of her suspension and termination, therefore,



the finding of the learned Additional Judge that the nature of the suit would change or it may change the pecuniary jurisdiction of the court is illegal.

Mr. Rajeev Kumar Singh, the learned counsel for the respondents submits that the order does not require any interference but I find that the learned Additional District Judge has committed jurisdictional error. The appeal is in continuation of the suit. The petitioner being plaintiff sought relief for declaration that the order of suspension/termination be declared illegal, void but could not seek relief for consequential relief which she is entitled after holding the order of suspension/termination as illegal. The consequential relief would not change the nature of the suit. Thus, I find that the order of the Additional District Judge is erroneous and illegal and fit to be set aside.

In the result, this civil miscellaneous petition is allowed. The order 16.08.2016 is set aside. The amendment petition is allowed.

(Prabhat Kumar Jha, J)

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