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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 697/2018 & CM APPLs. 51851-54/2018

STATE OF BIHAR

..... Appellant

Through: Mr. Talha Abdul Rahman with
Mr. M. Shoeb Alam, Advs.

versus

DILIP KUMAR RAM & ORS

..... Respondents

Through: Mr. Kamal Gupta with Ms. Pragya
Agrawal, Advs. for R-1.
Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Kamaldeep, Adv. for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

11.12.2018

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CM APPL. 51853/2018 (*exemption*)

Allowed, subject to just exceptions.

CM APPL. 51854/2018 (*condonation of delay*)

There is a delay of 272 days in filing the appeal.

In view of the reasons stated in the application, delay in filing the appeal is condoned.

The application stands disposed of.

LPA 697/2018 & CM APPLs. 51851/2018 & 51852/2018

1. This appeal has been filed by the State of Bihar under Clause 10 of the Letters Patent seeking exception to an order dated 22.01.2018 passed by the learned writ court in W.P.(C) 5187/2017.

2. About 21 students prosecuting a course of study in B.Ed. in an Institute situated in the State of Bihar filed the writ petition and it was the case of the 21 petitioners/respondents herein that they are students of one Ganga Institute of Education, Jhajjar, Haryana. They have been admitted to the said Institute on the basis of counselling held after following the due process and they were entitled to the Centrally Sponsored Scheme of Post Matric Scholarships (hereafter referred to as “PMS”) as they are students belonging to the Scheduled Castes community. When the scholarship was denied by the State of Bihar, the writ petition in question was filed. In the writ petition, two objections were raised by the appellant. The first was that the Institute is situated in Haryana, the students are from Bihar and as the State of Bihar is the disbursing authority the petition within the jurisdiction of this Court is not maintainable.

3. The learned writ court found after taking note of judgments of the Supreme Court in the case of *A.B.C. Laminart Pvt. Ltd. v. A.P. Agencies, Salem*, (1989) 2 SCC 163 and *Alchemist Limited and Another v. State Bank of Sikkim & Ors.*, (2007) 11 SCC 335 held that even if a small fraction of a cause of action arises within the jurisdiction of this Court, this Court can have jurisdiction in the matter. It was found that the scholarship is sponsored and sanctioned by the Central Government from Delhi and operation of the scholarship is from Delhi even though disbursement is made through the State of Bihar. Finding that no contentions were advanced on the principle of *forum non conveniens* and the limited challenge was only to territorial jurisdiction holding that part of the cause of action did arise within this Court’s jurisdiction, the writ petition was entertained.

4. In our considered view, taking note of the merits of the matter and the reasons that weighed with the learned writ court in interfering into the matter as is detailed from Para 15 onwards, we find that the admission of the petitioners/respondents herein were in accordance with law. They were entitled to the benefit under the sponsored scheme and even the controlling authority of the scheme, namely, the Union of India stated before the writ court that the State Government should process the application and pay the scholarship and the Central Government shall reimburse the amount of scholarship so disbursed. After taking note of the aforesaid in Paras 22, 23 and 24, the learned writ court dealt with the issue on merits in the following manner:-

“22. Insofar as the question regarding non receipt of applications relating to the petitioners is concerned, it does appear that there is some confusion as to how the said applications could be furnished. As per respondent no.3’s letter/advertisement dated 19.02.2016, scholarships were to be granted for students who are admitted “in government institutions within the State or outside the State or in institutions empanelled by the Department”. It is not disputed that it was subsequently clarified by respondent no.1 that there was no requirement that an institution must be empanelled with the concerned State Government. The learned counsel for the petitioners contended that respondent no.4 has been forwarding the applications of various students for scholarships but could not do so through the online process as it was not empanelled. This contention was also not controverted by the learned counsel for respondent no.3.

23. At this stage, it is also necessary to note that Mr Shukla, the learned counsel appearing for respondent no.1 had unequivocally stated that if the State Government processes the application of the petitioners, the Central Government shall reimburse the amount of scholarships disbursed.

24. In view of the above, it is directed that the petitioners may file their applications through respondent no.4, complete in all respects, with respondent no.3. Respondent no.3 shall process the same and may claim reimbursement from respondent no.1, for the amount disbursed to the petitioners.”

5. In doing so, on the basis of the statement made by the learned counsel representing the Union of India and after being satisfied that the students were entitled for scholarship, in allowing the writ petition the learned writ court has not committed any error.

6. In the facts and circumstances of the case, we find no reason to make any indulgence into the matter. The appeal stands dismissed. The pending applications also stand disposed of. However, the legal question pertaining to territorial jurisdiction is kept open to be considered, if required, in an appropriate case on a future date.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 11, 2018

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