

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1816 of 2015

In
Civil Writ Jurisdiction Case No.12579 of 2013

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Shivani daughter of Late Badrivishal Sharma, resident of villgae- Sabnima, Police station- Athmal Gola, Distt- Patna, presently Incharge Headmaster of Lalo Kunwar High School, Sabnima, via- Bakhtiarpur, P.S.- Athmalgola, Distt- Patna

... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Bihar, Patna
2. The Director, Secondary Education, Bihar, Patna.
3. The District Magistrate, Patna.
4. The District Education Officer, Patna.
5. The Subdivisional Officer, Barh, District- Patna.
6. The Senior Superintendent of Police, Patna.
7. The Block Education Officer, Barh, District- Patna.
8. The Officer Incharge, Athmal Gola Police Station, District- Patna
9. Sri Sudhir Kumar, son of Sri Indradeo Sharma, at and P.O.- Sabnima, Police Station- Athmal Gola, Distt- Patna

... .. Respondent/s

with

Letters Patent Appeal No. 1820 of 2015

In
Civil Writ Jurisdiction Case No.19898 of 2013

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Managing Committee, Lalo Kunwar High School, Sabnima, P.S. Athmalgola, District- Patna, through its Secretary, namely, Sheo Ram Sharma, son of late Harihar Sharma, vill/ P.O.- Sabnima, P.S.- Athmalgola, District- Patna.

... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Bihar, Patna
2. The Director, Secondary Education, Bihar, Patna.
3. The Deputy Director, Secondary Education, Bihar, Patna.
4. The District Education officer, Patna.
5. The Sub Divisional Officer, Barh, District- Patna.
6. The State Bank of India, Branch- Sabnima, through it's Branch Manager, P.S.- Athmalgola, District-



7. Sri Laxmi Kant Sharma, son of late Kailash Pati Sharma, At and P.O.- Nandma, P.S.- Barh, District- Patna.
8. Sri Sudhir Kumar, son of Sri indradeo Sharma, Vill/P.O.- Sabnima, P.S.- Athmalgola, District- Patna.
9. The Block Education Officer, Athmalgola, P.S.- Athmalgola, District- Patna.

... .. Respondent/s

Appearance :

(In both the Appeals)

For the Appellant/s	:	Mr. Sidhendra Narayan Singh Mr. Jagannath Prasad, Advocates
For the Respondent/s	:	Mr. Raghwanand, G.A. 11 Mr. Sanjay Kumar Tiwari, AC to G.A. 11

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 03-04-2019

These two *intra-court* appeals arise from a common judgment and order dated 20.08.2015 passed by a learned Single Judge of this court on the two writ petitions which lie at the foundation of the appeals and whereby the learned Single Judge taking note of the controversial nature of the dispute raised has refused to exercise extra-ordinary jurisdiction vested under Article 226 of the Constitution of India but allowed the petitioner to move the Civil Court of competent jurisdiction for the relief.

Mr. Sidhendra Narayan Singh, learned counsel appears for the appellant in both the appeals while State is represented by Mr. Gopal Krishna, learned AC to G.A. 7.



We have heard learned counsel for the parties and we have perused the record and it is not in dispute that it is the functioning of the Managing Committee of the School which is put to question before this court.

Mr. Singh submits that the matter relates to Lalo Kuwar High School situated at Sabnima, P.S. Athmalgola in the district of Patna, which is an aided school.

We take notice of the grievances raised by the petitioner which is subject matter of L.P.A. No. 1816 of 2015 which questions the action of the Secretary of the Managing Committee while the second appeal i.e. L.P.A. No. 1820 of 2015 arises from a writ petition questioning the order of the Director for constitution of Managing Committee. In substance, it is either the functioning or the constitution of the Managing Committee which was put to question in the writ petitions, which have been dismissed.

In the uncontested position noted above, we are in no confusion to record that a writ in such circumstances is not an appropriate remedy and it is bearing such fact in mind that the learned Single Judge has allowed the petitioner to espouse his case before the Court of competent civil jurisdiction because no writ lies against a private party.



While these appeals were pending consideration that the State has framed the Bihar Grant Education Institution Authority Rules, 2015 (hereinafter referred to as ‘the Rules”) to cater to the issues of the present kind.

In the circumstances noted above and in addition to the liberty already preserved for the petitioner under the orders of the learned Single Judge, we allow the two petitioners to take recourse to the remedy available under ‘the Rules’, which caters to each and every issue arising in an aided institution run by a Managing Committee.

With the observations above, we dispose of these appeals.

(Jyoti Saran, J)

(Arvind Srivastava, J)

mcv/-

AFR/NAFR	NAFR
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