

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1574 of 2018

In
Civil Writ Jurisdiction Case No.13118 of 2018

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Council of the Anjuman E. Ittehad Milli Chakand through its Secretary Shoaib Ahmad, Son of Late Nizamuddin, R/o Behind of Adarsh Madhya Vidyalaya, Chakand Bazar, Chakand, Gaya-804404.

... .. Appellant.

Versus

1. The State of Bihar.
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Deputy Secretary, Education Department, Government of Bihar, Patna.
4. Director, Secondary, Education Department, Government of Bihar, Patna.
5. Chairman, Bihar School Examination Board Senior Secondary, Budh Marg, Patna-800001.
6. Secretary, Bihar School Examination Board Senior Secondary, Budh Marg, Patna-800001.
7. Divisional Commissioner, Magadh Division, Gaya.
8. District Education Officer, Gaya.

... .. Respondents.

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Appearance :

For the Appellant	:	Mr. Syed Arshad Alam, Advocate.
		Mrs. Anjum Perveen, Advocate.
For the Respondent/s	:	Mr.Priyadarshni Matri Sharan, AC toAAG-15

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

3 02-12-2019

Re.: I.A. No.9728 of 2018

Heard learned counsel for the appellant and learned
counsel for the respondents.

The delay of 31 days caused in preferring this appeal
is condoned.

I.A. No.9728 of 2018 stands disposed of.



L.P.A. No.1574 of 2018

Heard Mr. Arshad Alam learned counsel for the appellant and learned counsel for the respondents.

This intra court appeal under Clause-10 of the Patna High Court Rules, 1916 has been preferred by the appellant challenging the order dated 23.08.2018 passed by the learned Single Judge in C.W.J.C. No.13111 of 2018.

The appellant had preferred C.W.J.C. No.13111 of 2018 for the following reliefs:-

“(i) For a direction upon the Respondents to consider the representations of the Petitioner dated 26.09.2018, 13.11.2017 whereby the Petitioner has made request to remove unauthorised persons who are obstructing the smooth functioning of the school in question.

(ii) For a direction upon the respondents to accept the governing body and the Managing Committee as constituted by the authorised persons under byelaws registered as back as in the year 1984-85 vide Registration No.407 with the Inspector General of Registration, Government of Bihar, Patna.

(iii) For a direction upon the respondents Bihar School Examination Board not to act on any letter/request of any unauthorised person who are making attempt to grab the property of the school by creating fabricating, fictitious and misleading documents without consent of approval of the competent authority/General Body looking after the management of the school in question.

(iv) Any other order/orders for which the petitioner is found entitled to in the facts and circumstances of the present case.”

Having heard the parties, the learned Single Judge



disposed of the writ petition, vide order 23.08.2018, with liberty to the appellant to raise the dispute before the appropriate forum, as found to be permissible in law.

The order dated 23.08.2018 reads as under:-

“From the pleadings on record, it is evident that the dispute is between the private persons in respect of the constitution of Governing Body and Managing Committee of Azad High School, Chakand. The dispute of the nature as raised in the present writ application cannot be gone into in a proceeding under Article 226 of the Constitution of India.

It appears from the statement made in paragraph-15 of this writ application that the respondent no.9 has filed a Title Suit, which is pending in the Court of learned Munsif-III, Gaya, for a declaration that the School was established by him.

There is another Title Suit also numbered as Title Suit No.315/1992, which, according to the petitioner, has been filed by some unauthorised persons. I need not go into such aspects of the matter in the present proceeding, there being question of facts involved.

This application is, accordingly, disposed of with the observation that the petitioner shall have liberty to raise the dispute before appropriate forum, as found to be permissible in law.”

Mr. Arshad Alam, learned counsel for the appellant does not dispute the fact that the dispute is between the private persons in respect of constitution of Governing Body and the Managing Committee of the school in question. However, he has submitted that the learned Single Judge, instead of relegating the appellant to any other forum, ought to have entertained the writ petition on merit and decided the same, as



the society of the appellant is registered one, whereas the society of the respondents is unregistered one.

We find no merit in the submission of the learned counsel for the appellant. On the facts and in the circumstances of the case, we are also of the opinion that the dispute of the nature, as raised in the writ petition filed by the appellant, would not have gone into a proceeding under Article 226 of the Constitution of India. The learned Single Judge has rightly refused to exercise his discretion in favour of the appellant and disposed of the writ petition giving liberty to raise the dispute before the appropriate forum.

The appeal, being devoid of any merit, is dismissed accordingly.

(Ashwani Kumar Singh, J.)

(Prakash Chandra Jaiswal, J.)

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