

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2806 of 2016

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S. S. P. S. College Son of Late Nunumani Singh resident of Village - Rangapatal, P.O. Navgain, P.S. Sangrampur, District - Munger. Presently residing at Village, PO and PS - Shambhuganj, District - Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Secondary Education, Government of Bihar, Patna.
3. The Regional Deputy Director of Education, Bhagalpur.
4. The District Education Officer, Banka.
5. The Chairman, Bihar School Examination Board Senior Secondary, Budh Marg, Patna.
6. The Secretary, Bihar School Examination Board Senior Secondary, Budh Marg, Patna.
7. Sri Rakesh Ranjan Singh Son of Late Sahdeo Singh C/o Raghubansh Mani Singh, Chhoti Kanjarpur, M.M. College Road, P.O. Bhagalpur, District - Bhagalpur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13710 of 2016

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1. The Bihar School Examination Board Senior Secondary
 2. The Chairman, Bihar School Examination Board Senior Secondary, Buddha Marg, Patna.
 3. The Secretary, the Bihar School Examination Board Senior Secondary, Budhha Marg, Patna.

... .. Petitioner/s

Versus

1. Rakesh Ranjan Singh and Ors son of Late Sahdeo Prasad Singh C/o Raghubanshmani Singh, Chotti Kanjarpur, S.M. College, Road, P.O. Bhagalpur, Bhagalpur.
2. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patn
3. The Director, Secondary Education, Patna.
4. The Regional Deputy Director of Education, Bhagalpur.
5. The District Education Officer, Banka.

... .. Respondent/s

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Appearance :



(In Civil Writ Jurisdiction Case No. 2806 of 2016)

For the Petitioner/s : Mr. Madhav Roy, Adv. With
Mr. Rabindra Nath Tiwari, Adv. With
Mr. Rakesh Kumar Jha, Adv.
For the State : Mr. Gyan Prakash Ojha, GA-7
For the BSEB : Mr. Gyan Shankar
For the Respondent
(Rakesh Ranjan) : Mr. Sanjeev Kumar Mishra, Adv. With
Mrs. Manini Jaiswal, Adv. With
Mr. Abhishek Mishra, Adv. With
Mr. Ravi Anand, Adv.

(In Civil Writ Jurisdiction Case No. 13710 of 2016)

For the Petitioner/s : Mr. Satyabir Bharti, Adv.
For the State : Mr. J.K. Roy, Adv.
For the Respondent
(Rakesh Ranjan) : Mr. Sanjeev Kumar Mishra, Adv. With
Mrs. Manini Jaiswal, Adv. With
Mr. Abhishek Mishra, Adv. With
Mr. Ravi Anand, Adv.

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

7 26-07-2022

1. Heard the parties.

2. Both these writ petitions, the order passed by the District Education Appellate Tribunal, Banka dated 21.12.2015 is under challenge.

3. The petitioner in C.W.J.C. No. 2806 of 2016 is the College and it assails the order of the Tribunal on the ground that the respondent no. 7 had no locus to prefer an appeal and pray for release of payment of grant to the petitioner College for its Intermediate Education Wing, on the ground that the respondent no. 7 was never made as the In-charge of the Secondary Wing nor he had any authority to pray for demand of grant from the Bihar School Examination Board, Patna.



4. It is urged that the College had once management with the Principal of the College being the head and In-charge of the entire College, which included the Intermediate and there was no such separate Intermediate College. Thus, the respondent no. 7, petitioner before the Tribunal had, no authority nor was empowered to move such an application. It is also submitted that the respondent no. 7 had already attained superannuation before the date he preferred an appeal before the Tribunal and thus, he had no connection with the College even with the Intermediate Wing after he had attained superannuation in June, 2015.

5. Learned counsel appearing for the Bihar School Examination Board has assailed the order passed by the Tribunal on the ground of jurisdiction. Learned counsel submits that as per the Bihar State School Teachers and Employees Disputes Redressal Rules, 2013, the Tribunal has an authority to examine matters relating to the disputes, arising out of release of grant. However, vide notification dated 19th May, 2015, Bihar Anudanit Shikshan Sansthan pradhikar Niyamawali, 2015 came into force with immediate effect. As per the aforesaid Regulations of 2015 (hereinafter referred as the Regulations of 2015), a separate State Forum was created for examining issues



arising out of release of grant to the various Educational Units whether Universities/ College, Intermediate Classes or Secondary Schools and Primary Schools. The question was to be thus looked into by the concerned Tribunal formed under the Regulations of 2015 as is apparent from Regulation, 11.

6. Learned counsel submits that the appeal had been preferred by the respondent no. 1 on 11th July, 2015 and on the said date the District Teachers Appellate Tribunal, Banka had no jurisdiction to entertain such an appeal. Even otherwise, he adopts the submissions of the learned counsel appearing for the S.S.P.S. College with regard to the locus of the respondent no. 1, on the ground that he did not possess any locus to prefer the appeal as he had already attained superannuation in June, 2015.

7. Learned counsel submits that the appeal preferred also does not mention about his attaining of superannuation and the same has been filed in personal capacity. It is pointed out that essentially it is a dispute between the two Principals/ In-charge of the different Sections of the College, which has resulted in unnecessary litigation coming up before this Court.

8. Learned counsel appearing for the respondent no. 7/respondent no. 1 in the respective petitions namely Rakesh Ranjan Singh submits that he has no interest left in the case as



he has already attained superannuation and he also submits that so far as grant is concerned, the same ought to be released to the Intermediate Section for the benefit of the students and the Classes. Admittedly, the grant has been withhelds for several years and there is no occasion for it not to be released. Learned counsel submits that this Court ought to take judicial notice with regard to said fact. However, he frankly admits that on coming into force of the Tribunal under the Regulations of 2015, the case ought to have been transferred to the said Tribunal, but as there was no objection raised by any of the parties, the District Appellate Authority continued to hear the matter and decided the same.

9. I have considered the submission of the respective parties. This Court has earlier observed that the two respective In-charge of the Degree Section of the College and the Intermediate Section of the College were resorting to litigation one after another and were in fact entering into inter se boxing, resulting in causing loss to the Institution as such. To my mind, the said aspect seems to be continued even till date. It is unfortunate that both the concerned Principals so called In-charge of the Intermediate College as well as the Degree College have retired, the subsequent In-charge has also passed



away, but the writ petitions have been continued by the Lawyers and are arguing tooth and nails before this Court.

10. Be that as it may, this Court finds that the order passed by the Tribunal dated 21st December, 2015 was in the background that there was no objection raised from any of the parties with regard to its jurisdiction. However, by the effect of the notification issued on 13th May, 2015, the District Education Appellate Tribunal seems to have jurisdiction with regard to the issue relating to release of grant.

11. In view thereof, the order dated 21st December, 2015 would not be sustainable in law. The Bihar Intermediate Education Council Act, 1992 and the subsequent Act of Bihar School Examination Board Act empowered the Bihar School Examination Board to have control on the Intermediate Section of all the existing Colleges and accordingly it was required to examine whether the grant is to be released or not. In the normal course, this court would have remanded the matter to the concerned Tribunal formed under the Regulations of 2015. However, the said Regulations of 2015 also stands repealed subsequently by coming into force of the Rules of 2020.

12. In the circumstances, invoking the inherent powers of this Court under Articles 226 and 227 of the



Constitution, this Court deems it appropriate to direct the Board to conduct an inspection relating to the concerned Intermediate Section of the College, which has to be now under the Rules, 2020 treated as a separate Institution, and further release the pending grant, if it has not been released.

13. As far as the arguments raised by the learned counsel for the petitioner S.S.P.S. College is concerned, this Court agrees that the respondent no. 7 was having no locus to prefer an appeal with regard to release of grant, once he has attained superannuation.

14. The order dated 21st December, 2015 is quashed to the said extent, subject to the directions as given hereinabove.

15. These writ petitions are accordingly disposed of.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 2

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