

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9892 of 2022

=====

Anjali Priya @ Anjali D/o Ram Dev Ray, R/o Near Sanichara Sthan, Jawahar Colony, P.S. - Town, Begusarai, District - Begusarai, Bihar.

... .. Petitioner/s

Versus

1. Managing Committee Pracheen Kala Kendra through its Secretary, Sector 35- B, Chandigarh - 160022
2. Secretary, Pracheen Kala Kendra, Sector 35 -B, Chandigarh - 160022.
3. Registrar, Pracheen Kala Kendra Sector 35- B, Chandigarh - 160022.
4. Liaison Office, Pracheen Kala Kendra, Patna, through its Liaisoning Officer/Director/Manager, having Office at Flat No. 31, 3rd Floor, Bhawnani Commercial Complex, Near CDA Building, Rajendra Path, Patna - 800001.
5. Abhishek Kumar, authorized representative at the liaison office of Respondent No. 1 at Patna having office and present at Flat No. 31, 3rd Floor, Bhawnani Commercial Complex, Near CDA Building, Rajendra Path, Patna - 800001

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Prashant Kumar, Adv.
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 3 22-12-2022 1. Admittedly the petitioners had applied for affiliation from the Respondents at Chandigarh.
2. Learned counsel for the petitioner has attempted to bring jurisdiction of this Court on the basis that there is a liaison office at Patna. However, the prayer made the present petition is for restoring the affiliation which have been cancelled by the Respondent No. 1 based at Chandigarh.
3. In view of the judgment passed in **Alchemist Ltd. & Anr. Vrs. State Bank of Sikkim & Ors.**, the Supreme Court



has held as under :-

“16. It may be stated that by the Constitution (Forty-second Amendment) Act, 1976, Clause (1-A) was renumbered as Clause (2). The underlying object of amendment was expressed in the following words:

“Under the existing Article 226 of the Constitution, the only High Court which has jurisdiction with respect to the Central Government is the Punjab High Court. This involves considerable hardship to litigants from distant places. It is, therefore, proposed to amend Article 226 so that when any relief is sought against any Government, authority or person for any action taken, the High Court within whose jurisdiction the cause of action arises may also have jurisdiction to issue appropriate directions, orders or writs.”

17. As Joint Committee observed:

“This clause would enable the High Court within whose jurisdiction the cause of action arises to issue directions, orders or writs to any Government, authority or person, notwithstanding that the seat of such Government or authority or the residence of such person is outside the territorial jurisdiction of the High Court. The Committee feels that the High Court within whose jurisdiction the cause of action arises in part only should also be vested with such jurisdiction.”

18. The legislative history of the constitutional provisions, therefore, makes it clear that after 1963, cause of action is relevant and germane and a writ petition can be instituted in a High Court within the territorial jurisdiction of which cause of action in whole or in part arises.

20. It may be stated that the expression “cause of action” has neither been defined in the Constitution nor in the Code of Civil Procedure, 1908. It may, however, be described as a bundle of essential facts necessary for the plaintiff to prove before he can succeed. Failure to prove such facts would give the defendant a right to judgment in his favour. Cause of action thus gives occasion for and forms the foundation of the suit.

21. The classic definition of the expression “cause of action” is found in Cooke v. Gill [(1873) 8 CP 107 : 42 LJCP 98] wherein Lord Brett observed:

“ ‘Cause of action’ means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to



support his right to the judgment of the court.”

22. For every action, there has to be a cause of action. If there is no cause of action, the plaint or petition has to be dismissed.

24. In our opinion, the High Court was wholly justified in upholding the preliminary objection raised by the respondents and in dismissing the petition on the ground of want of territorial jurisdiction.

38. In the present case, the facts which have been pleaded by the appellant Company, in our judgment, cannot be said to be essential, integral or material facts so as to constitute a part of “cause of action” within the meaning of Article 226(2) of the Constitution. The High Court, in our opinion, therefore, was not wrong in dismissing the petition.”

4. This Court would not have the jurisdiction under **Article 226(2)** of the Constitution of India to hear the matter and the directions will have to be passed as against the Respondent No. 1,2 and 3 who do not fall under the jurisdiction of this Court. On the said ground of lack of territorial jurisdiction, this writ petition would not lie and accordingly dismissed with liberty to the petitioner to take up the matter before the appropriate Court of jurisdiction.

(Sanjeev Prakash Sharma, J)

Sachin/-
Item No. 20

U			
---	--	--	--

