

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.740 of 2019

In
Civil Writ Jurisdiction Case No.7310 of 2018

=====

Naina Kumari, female, aged about 27 years, D/o Sri Indrajit Badghadiya, Resident of Village Kerai, P.O. and P.S.- Naurangia, District West Champaran at Present residing in Hostel, Rajkiya Yugal Sah Janjati Balika Uchha Vidyalaya, Harnatand Bagha-2, District- West Champaran.

Appellant

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
2. The Director, Secondary Education to the Government of Bihar, Patna.
3. The Deputy Development Commissioner -Cum- Chief Executive Officer, Zila Parisad, West Champaran, Bettiah.
4. The District Education Officer, West Champaran, Bettiah.
5. Rajkiya Yugul Sah Janjati Balika Uchha Vidyalay 10+2 Harnatand, West Champaran, through its then Principal.
6. Smt. Chanmati Devi, the then Secretary, Yugul Sah Janjati Balika Uchha Vidyalaya, Harnatand and Tharuhat Mahila Vikash Sanstha Harnatand, West Champaran, at Present residing at Village Binwalia, P.O. Sidhaon, P.S. Loukariya, District West Champaran.

... .. Respondents

=====

Appearance :

For the Appellant : Mr. A.B. Ojha, Sr. Advocate with
: Mr. Sudhir Kumar Mishra, Advocate
For the Respondents : Mr. Shashi Shekhar Tiwary, AC to AAG-13/Ex AAG-15

=====

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI

and

HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

18 06-02-2024 Heard Mr. A.B. Ojha, learned Senior Counsel assisted by Mr. Sudhir Kumar Mishra, learned counsel for the appellant and Mr. Shashi Shekhar Tiwary, AC to AAG-13.

2. At the outset, learned senior counsel appearing for the appellant has pointed out that in the present appeal which is filed under Clause X of the Letters Patent of the Patna High



Court Rules, the appellant/original petitioner has challenged the order dated 14.05.2019 passed by learned Single Judge in Civil Writ Jurisdiction Case No. 7310 of 2018 whereby, the learned Single Judge has dismissed the petition, filed by the appellant/original petitioner mainly on technical ground that the petitioner has not challenged the report dated 03.01.2018 submitted by three man committee headed by Special Secretary, Education Department, Government of Bihar, Patna and also not challenged the letter of the Director (Secretary of Education) Education Department, Bihar, Patna dated 23.02.2018. Learned counsel has fairly submitted that after filing of the present appeal, the present appellant-original petitioner has now challenged the aforesaid reports/communications by filing another writ petition under Article 226 of the Constitution of India bearing CWJC No. 19352 of 2019. The said petition is still pending. It is also submitted that in the said petition, the petitioner has challenged the aforesaid reports and the communications on various grounds.

3. In view of the aforesaid development, when the present appellant-original petitioner has already filed the separate petition, challenging the aforesaid reports and communications, the present appeal is required to be disposed of



by granting liberty to the appellant herein to pursue the aforesaid petition.

4. In view of the aforesaid facts and circumstances of the present case, the present appeal is disposed of, granting liberty to the petitioner to proceed with the aforesaid petition before the learned Single Judge. It is clarified that we have not examined the case of the appellant-petitioner on merits and, therefore, it is open for the appellant-petitioner to proceed with the said petition. It is further clarified that we dispose of the present appeal mainly on the ground that the learned Single Judge in the present case, did not examine the petitioner's case on merits and dismissed the petition only on the ground that the aforesaid reports and the communications were not challenged before the learned Single Judge.

5. It is needless to observe that it is open for the respondents also, to take all the available contentions before the learned Single Judge.

(Vipul M. Pancholi, J)

(Rudra Prakash Mishra, J)

Gaurav Kumar/-

U			
---	--	--	--

