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IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2014

(Arising out of order dated 24/1/2014 passed in C.W.J.C. No.15703 of 2013)

Geeta Ramjot Bhagat Vidya Mandir & Anothers ----- Petitioners-Appellants

Versus

Bihar School Examination Board, Patna & Others ----- Respondents-Respondents

Subject :- L.P.A.

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VAKALATNAMA

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2014

(Arising out of order dated 24/1/2014 passed in C.W.J.C. No.15703 of 2013)

Geeta Ramjot Bhagat Vidya Mandir & Anothers ----- Petitioners-Appellants

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SYNOPSIS

Relief(s) - An Appeal against the judgement and order dated 24/1/2014 passed in C.W.J.C. No.15703 of 2013 by the Hon'ble Mr. Justice Ajay Kumar Tripathi.

<u>Fact(s)</u> -	<u>Date</u>	<u>Events</u>
	2005	School in question has been running and students of the school is to appear through other school and for that District Education Officer used to attach the school with recognized school in the Matriculation Examination.
	----	School has made request to grant affiliation and Respondents constituted inspection team which submitted its report to the Respondent No.2.

- 31/7/2012 Respondents granted affiliation to the school.
- 25/1/2013 Board issued Code Number to the School.
- 10/7/2013 Secretary of the Board issued letter to the Appellant No.2 directing him to take part in the meeting which was scheduled to be held on 13/7/2013.
- 23/7/2013 Respondent No.2 published press communiqué giving dates for registration of the students of affiliated school including the Government schools.
- 1/8/2013 Appellant filed an application for issuance of registration form for registration of students of the school to the District Education Officer, Madhepura.
- 2/8/2013 Appellant also gave an application to the Secretary of the Examination Board stating that the District Education Officer is not issuing registration forms and therefore requested to issue registration form to the appellants.
- 12/8/2013 The last date for registration of the students of the school without late fine. The Board has also fixed dated 27/8/2013 for acceptance of registration form and fees with late fine.
- Respondents have not issued registration form to the Appellants.

---- Appellants filed C.W.J.C. No.15703 of 2013 directing the Respondents to accept registration form and fees of the students of the school for appearing in ensuing examination in which Respondent No.1 & 2 filed their Counter Affidavit with a statement that the District Education Officer has been directed to issue OMR Form to the school but District Education Officer has not submitted the OMR Form.

---- Respondent No.3 filed Counter Affidavit stating that the students were not admitted upto 31/5/2012 and they have been admitted in July 2012 and for this reason OMR has not been issued to the school

HENCE THIS MEMO OF APPEAL

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Letters Patent Appellate Jurisdiction)

L.P.A. No. _____ of 2014

(Arising out of order dated 24/1/2014 passed in C.W.J.C. No.15703 of 2013)

In the matter of Memo of Appeal
Under Clause-X, Appendix-'E' of
the Patna High Court Rules.

AND

In the matter of –

1. Geeta Ramjot Bhagat Vidya Mandir(Madhyamik), Gopalpur, Udakishunganj, Madhepura, Distt – Madhepura through its Headmaster, Shri Gopal Sharma.
2. The Secretary Shri Kishore Jaiswal, aged about 48 years, S/o Late Ramjot Bhagat, Geeta Ramjot Bhagat Vidya Mandir(Madhyamik), Gopalpur, Udakishunganj, Madhepura, Distt – Madhepura.

Petitioners-Appellants

Through:- Mukesh Kumar Singh
Advocate

AOR NO- 03172-

31/01/2014

Versus

1. Bihar School Examination Board, Patna through its Secretary.
2. The Secretary, Bihar School Examination Board, Patna.
3. The District Education Officer, Madhepura, Distt-Madhepura.
4. *The State of Bihar*
----- Respondents-Respondents

To

The Hon'ble Ms. Justice Rekha M. Doshit, the Chief Justice of the High Court of Judicature at Patna and her other Companion Justices of the said Hon'ble High Court.

The humble application on behalf of the above named petitioners.

MOST RESPECTFULLY SHEWETH :-

1. That this is an Appeal against the judgement and order dated 24/1/2014 passed in C.W.J.C. No.15703 of 2013 by the Hon'ble Mr. Justice Ajay Kumar Tripathi and for allowing the prayer made in writ application.
2. That the Appellant No.1 is school itself and represent the students of the school and Appellant No.2 is Secretary of the School.
3. That the school in question has been running since several years back. The students of the school is to appear through other school and for that the

District Education Officer used to attach the school with recognized school in the Matriculation Examination. The students of the school appearing in the Matriculation Examination since 2005 through other recognized school.

4. That the school has made request to grant affiliation to the school. The Respondent constituted Inspection Team which submitted its report, after inspection the school, to the Secretary Respondent No.2.
5. That the matter was considered by the Respondents regarding grant of affiliation. By order dated 31/7/2012 the Respondents granted affiliation to the school. A copy of the order of affiliation as Annexure-2 to the writ application.
6. That on 25/1/2013, the Board issued Code Number to the school and its Code is 43710. A copy of the order dated 22/1/2013 granting Code to the school as Annexure-3 to the writ application.
7. That the Secretary of the Board issued letter to Appellant No.2 on 10/7/2013 directing him to take part in the meeting which is scheduled to be held on 13/7/2013. After receipt of the aforesaid letter Appellant No.2 attended the meeting on 13/7/2013. A copy of the letter dated 10/7/2013 as Annexure-4 to the writ application.
8. That in the mean time, the Respondent No.2 has published Press Communiqué No.37, dated 23/7/2013 giving dates for registration of the students of the affiliated schools including Government schools. A copy of

the Press Communiqué dated 23/7/2013 has already been annexed as Annexure-1 of this application.

9. That according to Annexure-1, the students of the school has to be registered for examination conducted by Respondent Board. The last date for registration of students of the school is 12/8/2013 without late fine. The Board has also fixed 27/8/2013 for acceptance of Registration Forms and Fees with late fine.
10. That Appellants filed an application on 1/8/2013 for issuance of Registration Form for registration of students of the school to the District Education Officer, Madhepura. A copy of the application of the petitioner dated 1/8/2013 as Annexure-5 to the writ application.
11. That Appellants also gave application to the Secretary of the Examination Board Respondent No.2 on 2/8/2013 stating that District Education Officer is not issuing Registration Forms and therefore requested to issue Registration Forms to the appellants. The appellants along with application, Challan showing deposit of Rs.10,500/- was attached with the application. A copy of the application dt. 2/8/13 as Annexure-6 to the writ application.
12. That Respondents have not issued Registration Forms to the appellants for the students of the school and non-registration of the students will result in debarring the students from appearing in the ensuing Matriculation Examination.

13. That the last date for submission of Registration Forms and Fees is 12/8/2013. The life of students will be un-necessarily in trouble as non-appearance of the students of the school will be detrimental in the career of the students of the school.
14. That the appellant filed C.W.J.C. No.15703 of 2013 for directing the Respondents to accept Registration Form and fees of students of Geeta Ramjot Bhagat Vidya Mandir, Gopalganj, Udakishunganj, Madhepura for appearing in ensuing examination. The Hon'ble High Court directed to file Counter File.
15. That the Respondents No.1 & 2 filed Counter Affidavit and with the statement that the District Education Officer has been directed to issue OMR Form to the school for filling up the said OMR. The District Education Officer, however has not submitted the OMR Form of the students of the school in question.
16. That the Respondent No.3 filed Counter Affidavit stating there in that the students were not admitted up to 31/5/2012 and they have been admitted in July 2012 and for this reason OMR has not being issued to the school.
17. That the case was heard and the specific averment made by the appellant in Paragraph-5 of the reply to Counter Affidavit that students have been admitted on or before 31/5/2012 and names of such students have been sent to the authority.

18. That students made hue and cry for not registration of their names and the records were burnt, the Police was informed and the matter having in the knowledge of all the authorities of the district.
19. That the Hon'ble Judge after hearing the parties, dismissed the writ application.

Being aggrieved by and dissatisfied with the judgment and order dated 24.01.2014 passed by Hon'ble Mr. Justice Ajay Kumar Tripathi in C.W.J.C. No.15703 of 2013, the above named appellants beg to move this Memo of Appeal on amongst the following

G R O U N D S :-

- (i) For that the students of the school is not at fault. They have been admitted on or before 31/5/2012 and list of such students have already been annexed in the writ application and as such the judgement and order to the contrary is bad in law.
- (ii) For that the life of students will suffer if OMR Form is not directed to be issued as examination is scheduled to be held in the month of March 2014.
- (iii) For that the appellant has committed no wrong and for that the students can not be allowed to suffer.

- (iv) For that the students of the school are mostly minor and they will suffer a lot if they are not allowed to appear in ensuing examination.
- (v) For that the judgement and order is otherwise bad in law and fit to be set aside.

It is therefore prayed that this Hon'ble Court may be pleased to allow the appeal and after hearing the parties, and further allow the prayer made in the writ application.

AND/OR

Pass such other order/orders which may appear fit and proper.

And for this the appellant shall ever pray.

AFFIDAVIT

I, Gopal Sharma, aged about 45 yers, S/o Sri Narayan Mistri, Resident of Village Bara Tami, P.S. Udakishunganj, District - Madhepura, do hereby solemnly affirm and state as follows:-

1. That I am Appellant No.1 in this case and as such am well acquainted with the facts and circumstances of the case.
2. That the contents of this Memo of Appeal and Affidavit have been read over and explained to me in Hindi which I have fully understood.
3. That the statements made in Paragraph Nos. 1 to 19 are true to my knowledge and those statements made in Paragraph Nos. None are information derived from the records of the case and rests are by way of submissions before this Hon'ble Court, which I believe to be true.

गोपाल शर्मा

CERTIFICATE

I certified that the ground set forth above are good grounds for Letters Patent Appeal and support the same at the time of hearing.

Certified further that my instructions are that the matter of which this Letters Patent Appeal arises have never come before this Hon'ble Court against the impugned order.

Certified further that no notice is necessary either to the Attorney General of India or to the Advocate General of Bihar under Order-27A, Rule-1 of the Code of Civil Procedure.

ADVOCATE
Mukesh Kumar Singh
A.O.R No - 03172
For the Appellants.

31/01/2014

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GOVT. OF BIHAR
REGISTRATION, EXCISE & PROHIBITION DEPT.
PATNA SCORE PATNA

COURT FEE

Authorization No. 2674



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27.1.2014

BIHAR

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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15703 of 2013

1. Geeta Ramjot Bhagat Vidya Mandir (Madhyamik), Gopalpur, Udakishunganj, Madhepura, Dist.- Madhepura Through Its Headmaster, Shri Gopal Sharma

2. The Secretary Shri Kishore Jaiswal, S/O Late Ramjot Bhagat Geeta Ramjot Bhagat Vidya Mandir (Madhyamik), Gopalpur, Udakishunganj, Madhepura, Distt. - Madhepura

..... Petitioner/s

Versus

1. Bihar School Examination Board, Patna through Its Secretary

2. The Secretary, Bihar School Examination Board, Patna

3. The District Education Officer, Madhepura, Distt. - Madhepura

..... Respondent/s

Appearance :

For the Petitioner/s : Mr Rajendra G. Singh, Sr. Advocate
Mr. Mukesh Kumar Singh

For the Respondent/s : Mr. M.K.Upadhyay, AC to GP 10
Mr. Rajesh Kumar

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

7 24-01-2014

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Court is not impressed by the defence or explanation which has been put up by the school for non-cooperation and production of record for verification of the genuineness of the students, who are required to be issued OMR for registration in the ensuing examination at the board level. Giving a blunt answer that he has no records as all records were burnt down by some miscreants is not going to give a leeway to the petitioner nor can the respondent authorities be directed to act in vacuum. There has to be some evidence for the authorities to satisfy themselves about the bona fide of the enrolment, the

number of students, who have pursued their studies bonafidely.

The defence of the petitioner for non- furnishing the details for verification does not entuse this Court to pass any order upon the respondent authorities to accept or issue any OMR at this stage. The responsibility squarely lies on the shoulder of the institution and if the fate of the students had been jeopardized, it has been done by the authorities of the school in question for which they have to answer to the students and the guardians. The Court cannot reach out to such institution in the above controversial circumstances.

Writ is dismissed

sd/-

(Ajay Kumar Tripathi, J)

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REQUIRED TO BE TRUE PHOTOCOPY
A.K.
27-01-14
For Joint Registrar (D)
Patna High Court
Authorized U/S 76 Act I of 1972

A.K.
A.S.
27/01/2014
CG 199/19/2/14