
(2007) 08 PAT CK 0139
In the Patna High Court
Case No : CWJC No. 1172 of 2003

Arjun Prasad and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Registration Act, 1908 — Section 68, 68A, 68B(2)

Citation : (2007) 4 PLJR 203

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioner and the learned Counsel for the respondents. The petitioners are Deed Writers granted licence between the years 1981 to 1990.

2. The State Government by an Ordinance in March 1991 brought about amendment in Section 68 of the Registration Act in its applicability to Bihar. Section 68-A prohibited unlicensed person from being in the vocation of Deed Writers. Section 68-B provided for grant of licence to Deed Writers. Section 68-B(2) provided that a person in the vocation for the last ten years was not required to appear in the written test for grant of such licence. By Section 69(bb) as amended in its applicability to the State of Bihar, provided for framing of Rules for grant of licence of Deed Writers, suspension and cancellation of licence, the terms and conditions for grant of licence and generally for other purposes connected with writing of documents to be presented for registration. The Ordinance was replaced by Bihar Act 6 of 1991 promulgated on 8.9.1991. However no Rules were framed u/s 69(bb) till the promulgation of the Bihar Deed Writers Licensing Rules by notification dated 13.3.1997. Rule 7(2) provided for grant of licence to a person in the vocation of Deed Writer for the last ten years on the date that the Rules came into force without requiring him to appear at an examination.

3. Submission on behalf of the petitioner is that the amended Sections 68-A and 68-B remained as dead letters on the statute book in absence of promulgation of the Rules. There was thus no occasion for the petitioners to appear at any examination. In absence of the Rules the statutory provisions could not be given effect to for reasons attributed to the respondents themselves for which the petitioners cannot be penalised. Even after promulgation of the Rule in 1997, the respondents did not provide for holding of an examination for Deed Writers till the year 2000. Therefore, the prohibition for unlicensed Deed Writers shall not apply for those in the vocation ten years prior to the year 2000.

4. Learned Counsel for the State sought to rely upon a Division Bench judgment of this Court reported in Awadhesh Tiwari and Others Vs. The State of Bihar and Others, by placing reliance more particularly on para 28 of the judgment to submit that by virtue of the Bihar Amendment Act 6 of 1991 as promulgated on 8.8.1991 a dividing line stood drawn up and only those who had been in vocation for last ten years were exempted and not others.

5. This Court has considered the submissions on behalf of the parties. The judgment relied upon on behalf of the respondent is of no avail since in that case only question was regarding vires of the Act. It is settled law that a judgment is an authority for what it actually decides and not what may logically be deduced from the same. To cull out a single line from the judgment and to claim that this was what the judgment decided cannot be accepted. This Court rejects the argument of the respondents.

6. Having made amendment in the Registration Act in its applicability to Bihar, the respondents are themselves to be blamed for not having promulgated the necessary Rules to give effect to the amended provisions of the Act under Sections 68-A and 68-B. In absence of the necessary Rules to be framed u/s 69(bb), the amended provisions remained a dead letter on the statute book and could not be implemented. Likewise having framed Rules in 1997 it was the respondents themselves who did not hold the necessary examination till the year 2000. The petitioners cannot be faulted for the same, and at the same time be denied the right to practice vocation for the reasons attributable to the respondents alone. Had the respondents held the examination in time, the petitioners may have competed in the same to continue with their vocation. That the petitioners have acquired experience over the years cannot be lost sight of by the Court. They will certainly be in a better position to draw documents and deeds by dint of their experience than those who may qualify in examination now and may be fresh to the vocation.

7. The interim order dated 5.8.2003 is made absolute. The prohibition of unlicensed Deed Writers shall not apply to such of the petitioners who have been in the vocation for the past ten years or more from the year 2000.

8. This order and the benefit thereunder shall remain continued to the petitioners who alone have adjudicated the matter before this Court and this order shall not

be treated as grant of benefit to those who are similarly situated and have chosen not to approach this Court. This application is allowed to the extent indicated above.