

(2009) 03 PAT CK 0029
In the Patna High Court
Case No : LPA No. 282 of 2009

Ashutosh Kumar Roy

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-03-2009

Acts Referred:

Citation : (2009) 3 PLJR 739

Hon'ble Judges : Shiva Kirti Singh, J; Dharnidhar Jha, J

Bench : Division Bench

Advocate : R.K. Giri, Shivendra Kishore, Y.V. Giri and Rajkishore Pd, for the Appellant;

Judgement

1. Heard the parties. Mr. Y.V. Giri, Senior Advocate appearing for the appellant advanced some submissions on merits. However, he finally confined his submissions only in respect of two grievances. In paragraph 32 of the judgment under appeal the learned Single Judge has concluded that in his view the admission, of 146 students in BBA course of Patna University were beyond the sanctioned strength of the BBA course and the same were obtained by fraud attributable to the Director-cum-Principal, Course Co-ordinator and others such as parents who acted for and on behalf of admitted candidates. Learned Single Judge further came to a finding that the students cannot be permitted to retain the benefits of admission because it had been obtained by fraud. The writ petition was, therefore, dismissed. According to learned counsel for the appellant while dismissing the writ petition it was not required to observe against the parents of the admitted candidates because that may lead to criminal case against the admitted students or their parents only on the basis of such observation. Elaborating the submission it was pointed out that in such a situation the students or their well wishers are either the victims of fraud or misuse of power by the authorities or they are good witness of such crime by the authorities.

2. The next grievance raised on behalf of appellant is that in spite of taking a

clear stand that the candidates whose admission has been cancelled shall be refunded with the money taken from them as fee for the course, the appellant has not been paid back the fee deposited by him.

3. So far as the first grievance is concerned, on a careful consideration of the scope and ambit of the writ petition, we are in agreement that the observation in question was not necessary to be made. Hence, the observation against the appellant and others who acted for admitted candidates shall not be treated as observation against the admitted candidates or their parents.

4. Learned counsel for the Patna University has submitted that the second grievance of the appellant is without any substance because fees of similar candidates have already been refunded by the institution and the same shall be done to the petitioner also as soon as he approaches the concerned authorities.

5. In view of aforesaid stand of the University, we observe that if the appellant has not been paid back his fees as per decision of the University then the due amount should be refunded to him without any delay and in any case within two weeks from today. The Letters Patent Appeal is disposed of.