(2010) 11 PAT CK 0061

In the Patna High Court

Case No : Letters Patent Appeal No. 687 of 2004

Chailaha Goshala APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 25-11-2010

Acts Referred:

Citation : (2011) 59 BLJR 2139

Hon'ble Judges : T. Meena Kumari, J;Shiva Kirti Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

T. Meena Kumari and Shiva Kirti Singh, JJ.—Heard the parties.

This Letters Patent Appeal is directed against judgment of learned single Judge whereby writ petition preferred by the Appellants has been dismissed on a finding given by learned Board of Revenue and accepted by the learned single Judge that the Muzaffarpur Goshala is the only Goshala duly registered and established under the Bihar Goshala Act, 1950.

2. It has been further found that the claims of the Appellants that they are independent Goshalas are not correct. They are only units of Muzaffarpur Goshala or institutions created under it which have no existence and status as Goshala under the aforesaid Act and they are not land holders.

3. Learned Counsel for the Appellants has fairly accepted the position that Muzaffarpur Goshala is the only Goshala established under the Bihar Goshala Act, 1950 and therefore, that Goshala alone can be treated as a charitable body as per Notification of the State Government dated 15th December 1970 issued under the provisions of Land Ceiling Act, 1961, specially in context of Section 29 of that Act. Hence, learned Counsel for the Appellants gave up the claim of the Appellants to be treated as separate Goshalas entitled for being treated as land holders and to exemption in terms of Notification of the State Government dated 15th December 1970. However, two separate issues were sought to be raised.

The first issue was on the basis of further provisions in the Notification dated 15th December 1970 requiring Collector under the Ceiling Act to hold enquiries for finding out requirement of land for a Goshala entitled to exemption. The second issue was on behalf of Muzaffarpur Goshala that the said Goshala should have been granted exemption for holding more lands than what has been allowed by the authorities under the Ceiling Act.

4. Having given our anxious consideration to the relevant facts, we are unable to accept the submission on behalf of the Appellants that relief is possible to be given to the Appellants on account of aforesaid two issues. Once it is accepted that the Appellants are not Goshalas established under the Bihar Goshala Act, 1950 they cannot be entitled for any exemption under the provisions of Section 29 of the Ceiling Act. In that view of the matter, the Appellants do not have any locus to raise any grievance in respect of non holding of a proper enquiry contemplated under the Notification dated 15th December 1970 contained in Annexure-12. That enquiry procedure is only available to a Goshala established under the Bihar Goshala Act, 1950.

5. The second issue raising a grievance that the Muzaffarpur Goshala has been exempted lands which are not sufficient and that more lands should have been exempted for the said Goshala also cannot be raised by these Appellants even when it is accepted that the Appellants are units of the Muzaffarpur Goshalas. The principal Goshala registered under the Bihar Goshala Act, 1950 is not a party to the present proceeding and it will not be proper to permit the Appellants to raise any grievance on behalf of Muzaffarpur Goshala. Such course of action as suggested by learned Counsel for the Appellants would not be proper to be followed for the additional reason that such issues were neither raised before the member Board of Revenue nor before the learned single Judge. In fact, the Appellants had approached this Court by preferring writ petition much earlier in 1989 which was disposed of by order dated 14.11.1994 contained in Annexure-1 to the writ petition. By that order a limited remand was made by this Court asking the Board of Revenue to take into consideration the documents filed by the Appellants before the Board of Revenue and then decide the claim of the Appellants. That has been done by the Board of Revenue after remand and the order passed by the Board of Revenue and the learned single Judge clearly indicate that the Appellants had raised a simple and singular claim that they are separate Goshalas entitled for exemption of their lands under the provisions of the Ceiling Act. That issue, as noticed above, has already been abandoned on behalf of Appellants.

6. In such circumstances, there is no scope to entertain new issues which were never dealt with by the Board of Revenue or by the learned single Judge because they were never raised.

7. In the aforesaid facts and circumstances, we find no good grounds to interfere with the order of learned single Judge. This appeal is, therefore, dismissed.

8. There shall be no order as to costs.

