

(1938) 12 FED CK 0001

In the Federal Court

Lakhpatriam

APPELLANT

Vs

Beharilal Misir and others

RESPONDENT

Date of Decision : 12-12-1938

Acts Referred:

Citation : AIR 1938 FC 42

Hon'ble Judges : Justice Maurice Gwyer, Justice Shah Sulaiman, M. R. Jayaka

Bench : Full Bench

Judgement

1. In this case the applicant, Lakhpatriam, has applied to the High Court at Patna for a certificate under Sec. 205 (1), Government of India Act,

1935. The High Court have refused to grant the certificate, assigning no reasons for their refusal. Mr. Raghubir Singh now comes before us ex

parte and asks for special leave to appeal, or in the alternative for a special certificate, notwithstanding the refusal of a certificate by the High

Court. He argues that this Court has jurisdiction to entertain such an application and he puts his case in two ways. He says first that if S. 205 is

carefully considered it will be found that the Act itself contemplates the possibility of an application for special leave to appeal in a case of this kind

to the Federal Court, and he draws our attention to the concluding words of sub-s. (2) of the Section. It is quite clear that these concluding words

only relate to a case where the High Court have already granted a certificate and the appellant is seeking to rely on other grounds for his appeal

than the two grounds expressly mentioned in the earlier part of the sub-section. Mr. Raghubir Singh's second point is that this Court has an

inherent jurisdiction to grant special leave to appeal in cases where the High Court has refused a certificate, since other, wise, he says, an appellant

may suffer grave injustice. This Court being a statutory Court, its jurisdiction must be collected from the terms of the statute which created it; and it

is impossible to point to anything in the statute which gives the Court power to entertain an application for special leave to appeal. The first case

which was heard before the Court a few weeks ago, 180 I C 547, Pashupati Bharthi v. Secretary of State, (1938) 25 A I R F C 1 : 180 I C 547 :

1939 F L J 1 in effect so decided. That was an application for the exercise of a supposed revisional jurisdiction, and the Court used these words:

Counsel for the applicant admitted that no right of appeal against the refusal to grant a certificate is given by Sec. 205; and he could not well do

otherwise.

And then later on:

To the second point, viz. that the inherent powers of the Court must be held to give it a revisional jurisdiction for the purpose of preventing

injustice, there appear to us to be several answers. In the first place, though every Court of superior jurisdiction no doubt possesses inherent

powers for certain purposes (of which it is unnecessary, and perhaps would be unwise, to attempt an exhaustive definition), we know of no

authority for the proposition that a Court by the exercise of any inherent powers can extend its appellate jurisdiction or increase its revisional

authority over other Courts.

We asked Mr. Raghubir Singh if he could cite any authority for the proposition submitted by him and he has been unable to do so. We are satisfied

that we have no inherent jurisdiction to entertain an application of this kind, and the application must therefore be dismissed.