

(1965) 03 PAT CK 0003

In the Patna High Court

Case No : Misc. Judl. Case No. 1282 of 1964

Ram Charitar Lal Gupta

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-03-1965

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1967 Patna 183

Hon'ble Judges : R.K. Chaudhary, J;G.N. Prasad, J

Bench : Division Bench

Advocate : Jyoti Narayan, for the Appellant; B.D. Singh, A.S.C., Baijnath Sahay, Kumar Sidheshwar Prasad Singh and Janardan Sinha, for the Respondent

Final Decision : Allowed

Judgement

1. This writ application under Article 226 of the Constitution of India is, as per order passed earlier, confined to the prayer of the petitioner for quashing the order of the Regional Deputy Director of Education, Chota Nagpur Division, Ranchi (respondent No. 5), dated the 17th of August. 1964, withholding the grant-in-aid sanctioned by the Government in favour of the Sita High English School, Hariharganj, in the district of Palaman, of which the petitioner was a founder member.

2. The case of the petitioner is that, due to several controversies between the petitioner and the Department of Education, the latter took various actions to harass the petitioner in the management of the school, as a result of which the petitioner's name was not accepted as being a donor-member of the said school and the grant-in-aid was stopped by respondent No. 5 as stated above. In the present application, we are not concerned with the order relating to the non-acceptance of the petitioner as being a donor-member. As the application is confined to the order stopping the grant-in-aid, it has to be examined whether that order is valid or not.

Counsel for the petitioner has urged several points in support of the writ application, namely, (i) that the order was mala fide (ii) that the Regional Deputy Director of Education had no jurisdiction to withhold the grant-in-aid, nor could he be delegated the power for withholding the grant-in-aid, (iii) that the reasons which were taken into consideration by the Regional Deputy Director of Education in stopping the grant-in-aid are inconsistent with the provisions of the rules made in the year 1964; and (iv) that there has been a violation of the principles of natural justice in not giving an opportunity to the petitioner to be heard before withholding the grant in aid.

3. The petitioner has specifically mentioned in paragraph 30 (iv) of the writ application that no order withholding the grant of the school could be passed without giving an opportunity to the Managing Committee of the School to show cause against the alleged non-compliance of rule and instruction. Cause has been shown by the State and a counter-affidavit has been filed on its behalf in which the claim of the petitioner that no opportunity was given to the Managing Committee before withholding the grant-in-aid has not been controverted. Learned Additional Standing Counsel has, as a matter of fact, frankly conceded that no such opportunity was given to the Managing Committee of the school before withholding of the grant-in-aid and in passing the order withholding the grant there has been a violation of the principles of natural justice. On that ground alone the order of the Regional Deputy Director of Education, copy of which is annexure "L" to the writ application, has to be quashed. In view of this finding, therefore, we do not propose to deal with the other points raised by learned counsel for the petitioner.

4. For the reason given above, we think a writ of certiorari must be issued in this case. Let, therefore, a writ of certiorari be issued against respondents 1 to 7 quashing the order of respondent No. 6, a copy of which is annexure L" to the writ application. The application is, accordingly, allowed. In the circumstances of the case, however, there will be no order as to costs.