

(2018) 03 JH CK 0048
In the Jharkhand High Court
Case No : L.P.A. No.100 of 2015

SRI BANKESHWAR NATH HIGH SCHOOL, BANKA BHANDAR, APPELLANT
P.O. BANKA, P.S. MERAL, DISTRICT-GARHWA,

Vs

STATE OF JHARKHAND

RESPONDENT

Date of Decision : 21-03-2018

Acts Referred:

Citation : (2018) 03 JH CK 0048

Hon'ble Judges : D.N. PATEL, J;AMITAV K. GUPTA, J

Bench : Division Bench

Advocate : Jai Prakash Jha, Kishore Kr. Mishra, Bhawesh Kumar, Rahul Kamlesh

Final Decision : Dismissed

Judgement

D.N. Patel, J

1. This Letters Patent Appeal has been preferred by the appellant (original petitioner) whose writ petition being W.P.(C) No.3152 of 2012

was dismissed by the learned Single Judge vide judgment and order dated 8th January, 2015 and hence, the appellant (original

petitioner) has preferred the present Letters Patent Appeal.

2. Having heard learned counsels of both the sides and looking to the facts and circumstances of the case, it appears that respondent No.7 school was

working as middle school which was upgraded to high school on 15th September, 2006.

3. This appellant (original petitioner) is also a high school and therefore, on the basis of a letter issued by a Government Officer dated 21st April, 2007

(Annexure-7) a writ petition was preferred by this appellant, earlier, being W.P. (C) No.6387 of 2011 challenging the upgradation of respondent No.7-

school.

4. This earlier writ petition preferred by this appellant was disposed of by the learned Single Judge of this Court vide order dated 18th January, 2012 in

which a direction was given to decide the representation of this petitioner.

5. In pursuance of the aforesaid order in W.P.(C) No.6387 of 2011 dated 18th January, 2012 representation of this appellant was decided by the

respondent-Government vide order dated 5th May, 2012 and the representation preferred by this appellant was brushed aside.

6. Being aggrieved and feeling dis-satisfied by the order dated 5th May, 2012 another writ petition being W.P.(C) No.3152 of 2012 was

preferred by this appellant which was dismissed by the learned Single Judge and hence, the appellant (original petitioner) has preferred the present

Letters Patent Appeal.

7. Much has been argued out by learned counsel for the appellant based upon a letter dated 21st April, 2007 written by a Government officer which is

at Annexure-6. We have perused Annexure-6, the letter dated 21st April, 2007. Such type of observations made in the said letter are not

mandatory. They are only directory in nature. There is no law, not to give upgradation to any school even though the Government so requires

looking to the public need. Such type of observations in the letter dated 21st April, 2007 cannot be treated as a law and much less as a direction or

policy decision taken by the Government. Hence, it has got no value in the eye of law.

8. Even otherwise also, upgradation of respondent No.7-school was made in the year 2006, whereas, the so-called letter upon which too much reliance

is placed is dated 21st April, 2007 which has got no retrospective effect and hence also for the event which has already taken place in

September, 2006, a letter dated 21st April, 2007 cannot be applied. It appears that this appellant (original petitioner) wants its monopoly and that

too, in the field of education which is not permissible in the eye of law.

9. If the respondent-Government is of the opinion that looking to the public need and administrative exigency, if any middle school is to be upgraded as

a high school, then it has got all right, power, jurisdiction and authority, despite such letter dated 21st April, 2007, to give the upgradation to

such middle schools. No error, therefore, has been committed by the learned

Single Judge in dismissing the writ petition and we see no reason to interfere with the order passed by the learned Single Judge.Â This Letters Patent Appeal is hereby dismissed with a cost of Rs.10,000/- (rupees ten thousand) which will be deposited by the appellant (original petitioner) within four weeks before the Secretary, Women & Child Development and Social Security, Government of Jharkhand towards Juvenile Justice Fund and this amount will be used for the welfare of the juveniles.Â This amount shall be paid in Account No.37344984625, Jharkhand Juvenile Justice Fund, State Bank of India, Project Bhawan, Hatia.

10. Copy of this order will be sent to the Secretary, Department of Women & Child Development and Social Welfare, Government of Jharkhand and the Member Secretary, Jharkhand Legal Services Authority, Nyay Sadan, Doranda, Ranchi.

11. This Letters Patent Appeal is, hereby, dismissed with cost.