

(2003) 09 PAT CK 0119

Patna High Court

Case No: L.P.A. No. 567 of 2003

Ajay Kumar Prasad

APPELLANT

Vs

Bihar State Electricity Board and
OthersRESPONDENT

Date of Decision: Sept. 11, 2003**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 200

Citation: (2004) 1 PLJR 203**Hon'ble Judges:** Ravi S. Dhavan, C.J; Shashank Kr. Singh, J**Bench:** Division Bench**Advocate:** Binod Kanth and Sanjeev Shankar, for the Appellant; Mihir Kumar Jha, for the Respondent**Final Decision:** Dismissed

Judgement

Ravi S. Dhavan, C.J.

The matter before the Court is in a Letters Patent Appeal. A jurisdiction structured even before the prerogative writ jurisdiction was available to the Court in the year of Republic in 1950. The foundations of the Letters Patent Appeal rested, very simply, on the three cardinal principles, justice, equity and good conscience. When the prerogative writ jurisdiction became available to the citizens of the Republic of India these principles still remained. The technicality of a writ of certiorari gave a new found jurisdiction to the High Courts as a certificate action. This is what a writ of certiorari is about, A certiorari also brings the record of the state to the High Court to aid justice, yet by justice, equity and good conscience. Other prerogative writs, mandamus, quo warranto are complimentary to a certiorari. Habeas Corpus was available even before the Constitution of India.

2. The High Court is a Court of equity first. This also implies that it is not a Court which encourages inequity or factors which negate equity. The High Court is not a

Court of technicality but a Court of justice. The High Court cannot mathematically de-liver its justice without good conscience.

3. In this case the arguments undoubtedly have been presented very seriously but ingeniously on behalf of the Petitioner. The reply has been given equally effectively on behalf of the Respondents. With the filing of a writ petition and an order on it, a subsequent Letters Patent Appeal and, thereafter, an order of remission saw a third decision on the same issues. The petition was heard on remand from a Letters Patent Appeal in the appellate jurisdiction. Whether an order of remand could be issued or not, this Court will leave this for another occasion, because that is yet another academic issue whether in a superior Court of record one division may give a direction to another. Settled law discourages this pattern.

4. What exactly is the issue in the present Letters Patent Appeal or, for that matter, as it was brought in the writ petition?

5. The Petitioner received an employment with the Bihar State Electricity Board as an Assistant Electrical Engineer in the year 1984. It has been submitted before this Court and on this there is no issue that originally the Petitioner was resident in Madhya Pradesh. He was domiciled there, had his education there but his employment is in Bihar. The issue begins when the Petitioner claimed employment on a reserved post a post reserved for a Scheduled Caste candidate. The Petitioner offered himself for employment and put in a caste certificate claiming that he was Mahar by caste. Why would the Petitioner declare his caste? There must be a purpose for this. He was seeking employment on the advantage of reservation. On this the Petitioner received an appointment. In effect, his application for a job was acted upon.

6. The Bihar State Electricity Board made an inquiry whether the certificate filed by the Petitioner claiming that he is Mahar by caste is forged or not. It sent its field officers to Madhya Pradesh and by this time more facts were emerging. The team went to the school where the Petitioner had taken his schooling. There the records disclosed that the Petitioner's caste was entered as Sudi. The variation, thus, was coming on the record. Whether the Petitioner was a Mahar by caste or a Sudi, the Petitioner asserts that he had not forged the certificate. The Court will leave this question unanswered for more reason than open. But the Petitioner does not dispute that at the school lies a record which de-scribes his caste as Sudi. The Court did inquire how did this happen. The submission of learned Counsel for the Petitioner was that he has yet to be questioned on the veracity of the issues. The balance which now remains on record is whether the Petitioner is a Mahar by caste? Whether the certificate which lies at the Bihar State Electricity Board has been forged? The Petitioner has yet to be confronted and questioned as to now his caste has been shown as Sudi in school? On the last one learned Counsel for the Petitioner-Appellant submitted that the Petitioner was too young to admit himself at school and his parent declared whatever they did so.

7. Ultimately, the issue which precipitates down is on what exactly does the Petitioner claim. Some day, somewhere and in some proceeding the Petitioner has to answer the question on what exactly is his claim so that he can clear himself on the alleged forgery on the certificate which was presented to the employer which shows him as Mahar. The certificate at the school shows otherwise.

8. Then, are these questions which the High Court, a Court of equity, will go into in its writ jurisdiction and then in its Letters Patent Appeal jurisdiction which does not cease to be an equity jurisdiction, but more of it. Allegations of incorrect statements, forged certificates, wrong declarations, clearly, are issues in belligerence and are disputed question of facts. Of evidence, claims and counter claims, can the High Court answer these questions? There are matters mentioned in Section 200 of the Indian Penal Code, 1860 Using as true such declaration knowing it to be false.

9. By all means the Petitioner has the liberty, should he claim himself to be a Mahar, and take advantage of a reserved job. No one in the world will stop him from doing it. But if there is a dispute and he faces allegations of incorrect statements and false claims, then the Petitioner will have to cloak himself with a declaration of confidence duly declared by a Court of competent jurisdiction to try these issues in a civil action. An allegation of forgery is criminal action which the Petitioner could also face.

10. In the circumstances, even the writ petition was misconceived. So is the Letters Patent Appeal.

11. Dismissed.