

Takshila Educational Society

Civil Writ Jurisdiction Case No.6380 of 2024

FORUM

Patna High Court

ORDER DATE

22 Apr 2024

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

6. We also notice the contours of the jurisdiction under Article 226 of the Constitution of India to interfere with appellable orders laid down by the Hon'ble Supreme Court in State of H.P & Ors. v. Gujarat Ambuja Cement Limited & Anr.; (2005) 6 SCC 499. It has been held that if an assessee approaches the High Court without availing the alternate remedy, it should be ensured that the assessee has made out a strong case or that there exists good grounds to invoke the extraordinary jurisdiction. While reiterating that Article 226 of the Constitution confers very wide powers on the High Court, it was clarified that nonetheless the remedy of writ is an absolutely discretionary remedy. The High Court, hence, can always refuse the exercise of discretion if there is an adequate and effective remedy elsewhere. The High Court can exercise the power only if it comes to the conclusion that there has been a breach of principles of natural justice or due procedure required for the decision has not been adopted. The High Court would also interfere if it comes to a conclusion that there is infringement of fundamental rights or where there is failure of principles of natural justice or where the orders and proceeding are wholly without jurisdiction or when the vires of an Act is challenged. The plea made of no oral hearing afforded has to be considered in the context of the option not having been exercised; which amounts to a waiver. 7. We, however, reserve the liberty of the petitioner to approach the appellate authority. The period during which the writ petition, was pending, from 10.04.2024, till today, shall not be reckoned as delay. 8. The writ petition stands dismissed.

SOURCE & VERIFICATION

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