

IN THE HIGH COURT OF JHARKHAND AT RANCHI

A.C.(DB) No. 03 of 2023

Management, St. Xavier's School Hazaribag ... Appellant
Versus

Dr. Md. Zafarullah & Anr. ... Respondents

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**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Appellant : Mr. Prabhash Kumar, Advocate
: Mr. Tapash Kabiraj, Advocate
For the CBSC : Mr. Shray Mishra, Advocate

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Order No.08/dated 04.12.2025

The present appeal has been filed under Section 15 of the Jharkhand Education Tribunal Act, 2015.

2. In view of the order passed by the Hon'ble Special Bench of this Court in A.C. (D.B.) No. 02 of 2018 along with the other batch cases wherein the following orders have been passed:

Heard.

A learned Division Bench of this Court vide its order dated 24.04.2019 had directed the matter to be placed before the Chief Justice in the administrative side for considering constitution of a Full Bench comprising of Five Hon'ble Judges of this Court for determining the following question:

“Whether, having regard to the provisions of Section 100A of the Code of Civil Procedure, an appeal before a Division Bench of this Court is maintainable under clause 10 of the Letters Patent against a judgment of a learned Single Judge of this Court delivered in exercise of appellate jurisdiction under a statute, which statute does not provide for further intra-court appeal?”

Having gone through the records of the case, we find that the reference so made by the learned Division Bench is actually not maintainable, given the fact that the instant appeal has not been filed under Clause 10 of the Letters Patent, but has rather been filed under Section 15 of the Jharkhand Education Tribunal Act, 2005 and, therefore, question of its maintainability, in such circumstances, does not arise for consideration.

Accordingly, the matter is referred back to the learned Division Bench leaving all questions of law and facts open.

3. In view of the aforesaid order, the appeal since has been filed in the correct form i.e. under section 15 of the Jharkhand Education Tribunal Act, 2015 and hence in view of the provision of (z1) of the Jharkhand High Court Rules where it has been provided that the Order/Judgment passed by the Single Bench having the order passed by the Jharkhand Education Tribunal, the appeal will lie to be heard by the Division Bench.

4. The appeal, accordingly, is maintainable.

5. Before proceeding with the merit, it needs to refer herein the issue of maintainability has been raised of an appeal in AC (D.B.) No. 02 of 2023.

6. The Hon'ble the Chief Justice has constituted the Five Judges Bench to consider the reference made by the Division Bench of this Court, as has been referred herein:-

“Whether, having regard to the provisions of Section 100A of the Code of Civil Procedure, an appeal before a Division Bench of this Court is maintainable under clause 10 of the Letters Patent against a judgment of a learned Single

Judge of this Court delivered in exercise of appellate jurisdiction under a statute, which statute does not provide for further intra-court appeal ?”

7. Since the appeal has been filed under Section 15 of the Jharkhand Education Tribunal Act, 2015, hence there is no issue of maintainability of the present appeal.

8. List this case on 22nd December, 2025.

(Sujit Narayan Prasad, J.)

(Arun Kumar Rai, J.)

Dated 4th December, 2025
P.K.S./Suman