

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1448 of 2014

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1. Md. Jamilur Rahman Son Of Late Hasibur Rahman Resident Of Panchaiti
Akbara, Opposite Taj Colony, Gaya, P.S. Kotwali, District - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar through The Principal Secretary, Education Department,
Government Of Bihar, Patna

2. The Director Higher Education, Education Department, Government Of Bihar,
Patna

3. The District Magistrate, Gaya

4. The Vice - Chancellor, Magadh University, Bodh Gaya, Gaya

5. The Chairman, Governing Body Mirza Galib College, Gaya

6. The Governing Body, Mirza Ghalib College, Gaya Through The Secretary,
Mirza Ghalib College, Gaya, P.S. Rampur, Gaya, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Banwari Sharma

Mr Mithilesh Kumar Upadhaya

Mr O.P.Upadhaya

For the State : Mr. Rajesh Kumar, AC to GP 10

For Respondent No.4 : Mr Rajendra Pd. Singh, Sr. Advocate

Mr Surendra Kr. Singh

For Respondent No.5: Mr Rashid Izhar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 31-03-2015

Heard counsel for the petitioner and counsel for the
respondents.

No doubt, on the basis of previous direction issued by the
Court on 13.3.2014, an enquiry was held by the District Education
Officer on the direction of the District Magistrate, which does throw
certain doubts on the fairness of the election held of the managing
committee for the year 2014. The question is whether that should
form the basis for acceding to the prayer of the petitioner to find a via

media to hold yet another election of the managing committee or not?

The Court could have given a direction upon the district administration to hold a free and fair election of the committee but such a direction ought not to be given at this stage now taking into consideration that a Title Suit No.111 of 2014 has been filed before the court of Principal Sub Judge, Gaya. If such an order is issued, as is the prayer of the petitioner, then the Title Suit itself will become infructuous and it will also have the effect of overriding, if not ousting the jurisdiction of the civil court from going into the dispute.

Counsel for the petitioner submits that the suit in question is a sham. The plaintiff, Md. Hasibur Rahman is a Trojan horse put up by the defendants and this is a modality, which is adopted every time to ensure that no final decision is rendered in a suit after due adjudication.

If this be so then the petitioner can very well file an application for impleadment or yet another suit, which may be clubbed and heard together or independent of.

The choice has to be made by the petitioner. This Court in the above circumstances, therefore, would not like to exercise its extraordinary jurisdiction vested under Article 226 of the Constitution of India and order holding of a fresh election by an independent agency.

The writ application stands disposed of. It is for the petitioner now to decide the course of action which he would like to adopt.

It is hoped and trusted that the Sub Judge dealing with the said suit will ensure that the matter gets adjudicated and decided by giving some priority to the case in question but that will depend upon the kind of assistance which are rendered by the counsel of either side.

(Ajay Kumar Tripathi, J)

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