

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15594 of 2013

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Arbind Kumar Choudhary S/O Sri Sukhdeo Choudhary Resident Of
Village- Maranchi, P.O- Maranchi, P.S- Bachwara, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Human Resources, New Secretariat, Govt. Of Bihar, Patna- 15
2. The Special Director (Secondary Education), Department Of Human Resources, New Secretariat, Govt. Of Bihar, Patna- 15
3. The Chairman, Bihar Sanskrit Shikksha Board, Patna.
4. The Secretary, Bihar Sanskrit Shikksha Board, Patna.
5. Sanjeev Kumar Jha S/O Late Bholakant Jha Resident Of Village- Kalyanpur Basti, P.S+ P.O- Moniuddin Nagar, District- Samastipur.
6. Girindra Mohan Mishra Paramhans, vill.+P.O.- Kalayanpur Basti, P.S.- Kalyanpur, Distt.- Samastipur.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.7286 of 2013

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1. Narayani Kumari Wife of Sri Sanjeev Kumar Jha Resident of Village Kalyanpur, P.S. Muhauddin Nagar, Distt. Samastipur, at present Clerk in Bharti Sanskrit Basti, Distt. - Samastipur
 2. Rajesh Kumar S/O Sri Uma Shankar Singh Resident Of Vill. + P.O. Madhepur, P.S. Dalsinghsarai, Distt. Samastipur, At Present Peon-In-Bharti Sanskrit High School Basti, Distt. Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Special Director, Secondary Education Bihar, Patna in Charge, Sanskrit Education Vikash Bhawan, Patna
3. The Bihar Sanskrit Shiksha Board, Patna, Boring Canal Road Patna through Its Secretary
4. The Chairman, Bihar Sanskrit Shiksha Board, Patna, Boring Canal Road, Patna
5. The Secretary, Bihar Sanskrit Shiksha Board, Patna Boring Canal Road, Patna
6. The District Education Officer, Samastipur, Distt. Samastipur
7. The District Programme Officer (Establishment) Distt. Samastipur
8. Girindra Mohan Mishra Paramhans, vill.+P.O.- Kamla, P.S-Ujiyarpur, Distt.- Samastipur.

.... Respondent/s

with

Civil Writ Jurisdiction Case No.18020 of 2013

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Krishna Chandra Son Of Late Ram Ekbal Mandal Resident Of Village - Janki Asthan, Sitamarhi, Ward No. 2, P.S. - Town, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar
2. Special Director, Primary Education, Department Of Education, Bihar, Patna
3. Bihar Sanskrit Shiksha Board, Patna through Its Chairman
4. Chairman, Bihar Sanskrit Shiksha Board, Patna
5. Managing Committee, Kaushalya Sanskrit High School, Mahua, Vaishali
6. Asha Prasad Wife of Late Gopal Prasad Resident of Village - P.S. - Town, District - Sitamarhi

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.3106 of 2014

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Sunil Kumar, S/o Dr. Ram Krit Rai Resident of Tajbagh Pokhara, P.O+ P.S- Hajipur, District- Vaishali.

.... Petitioner/s

Versus

1. Bihar Sanskrit Shiksha Board through Its Secretary, East Boring Canal Road, Patna.
2. The Chairman, Bihar Sanskrit Shiksha Board, through Its Secretary, East Boring Calal Road, Patna.
3. The Secretary, Bihar Sanskrit Shiksha Board through Its Secretary, East Boring Canal Road, Patna.
4. The Managing Committee of Kaushalya Sanskrit High School, Mahua, Vaishali.
5. Smt. Asha Prasad, Head Mistress of Kaushalya Sanskrit High School, Mahua, Vaishali.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.3155 of 2014

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Shivdhari Pandey S/O Late Mathura Pandey Resident Of Village Sultanpur, Post and P.S- Telhara, District- Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Secondary and Primary Education, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Department Of Secondary and Primary Education, Government of Bihar, New Secretariat, Patna.
3. The Special Director, Secondary Education, Govt. Of Bihar, New Secretariat, Patna.
4. The Director, Secondary Education, Govt. Of Bihar, New Secretariat, Patna.
5. The Bihar Sanskrit Shiksha Board through Its Secretary, P.S- Budha Colony, District- Patna.
6. The Secretary, Bihar Sanskrit Shiksha Board, P.S- Budha Colony, District- Patna.
7. The District Magistrate, Nalanda.
8. The S.D.O., Nalanda.
9. The District Education Officer, Nalanda.

10. The Treasury Officer, Nalanda.

11. Prabodh Kumar Praveen S/O Sri Kameshwar Prasad Resident Of Village- Kalabigha, P.- Telhara, P.S- Telhara, District- Nalanda.

12. The Managing Committee through Secretary

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.3435 of 2014

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Smt. Asha Prasad W/O Late Gopal Prasad Resident Of Village Ring Bandh Court Bazar, Sitamarhi Ward No. - 7, P.S. + District - Sitamarhi at present working as Head Master of Kaushalya Sanskrit High School, Mahua, P.S. Mahua, District - Vaishali

.... Petitioner/s

Versus

1. The State Of Bihar through Principle Secretary Human Resources Development Department, Government of Bihar, Patna
2. The Special Director, Secondary Education (Sanskrit), Government of Bihar, Patna
3. Bihar Sanskrit Shiksha Board through Its Secretary, East Boring Canal Road, Patna
4. The Chairman, Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna
5. The Secretary, Bihar Sanskrit Shiksha Board, East Boring Canal Road, Patna
6. The District Education Officer, Vaishali

.... Respondent/s

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with

Miscellaneous Jurisdiction Case No.3737 of 2014

IN

Civil Writ Jurisdiction Case No. 15594 of 2013

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Sanjeev Kumar Jha, Son of Late Bholakant Jha R/o Village Kalyanpur Basti, P.s. + P.O. Mohiuddin Nagar, District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through Shri R.K. Mahajan, Principal Secretary, Department of Education, Govt of Bihar, Patna
2. Shri Ashutosh Kumar, Special Director, Secondary Education Department of Education, Govt of Bihar, Patna
3. Sri Ramdeo Prasad, the Chairman Bihar Sanskrit Shiksha Board, Patna
4. Shri Milind Kumar Sinha, the Secretary, Bihar Sanskrit Shiksha Board, Patna

.... Respondent/s

Appearance :

(In CWJC No.15594 of 2013)

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate. Mr. Rajni Kant Pathak, Advocate.
For the State	:	Mr. A.B.Sinha, SC 19
For the BS.S.B.	:	Mr. S.S.Sundaram, Advocate.

Mr. Shashank Shekhar Jha, Advocate.
Mr. Ram Nivas Prasad, Advocate.

(In CWJC No.7286 of 2013)

For the Petitioner/s : Mr.
For the Respondent/s : Mr. Manoj Kumar Ambastha, GP 14
Mr. Subodh Kumar, AC to GP 14.

(In CWJC No.18020 of 2013)

For the Petitioner/s : Mr. Baidya Nath Thakur, Advocate.
For the Respondent/s : Mrs. Nivedita Nirvikar, Advocate.

(In CWJC No.3106 of 2014)

For the Petitioner/s : Mr. Sushil Kumar Jha, Advocate.
For the Respondent/s : Mr. Manikant Mishra, Advocate.

(In CWJC No.3155 of 2014)

For the Petitioner/s : Mr. Yugal Kishore, Sr. Advocate.
Mrs. Nutan Sahay, Advocate.
For the Respondent/s : Mr. Arvind Kumar No. 1, SC 13
For the B.S.S.B. : Mr. S.S.Sundaram, Advocate.
Mr. Shashank Shekhar Jha, Advocate.
Mr. Ram Nivas Prasad, Advocate.

(In CWJC No.3435 of 2014)

For the Petitioner/s : Mr. Sushil Kumar Jha, Advocate.
For the Respondent/s : Mr. Manikant Mishra, Advocate.

(In MJC No.3737 of 2014)

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Advocate.
For the Respondent/s : Mr. Satyam Shivam Sundaram, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

14 11-03-2015

Heard learned counsel for the parties.

2. All these writ applications, relate to the affairs of Non-Governmental recognized Sanskrit Schools, wherein there have been no statutory provisions either in respect of appointment of the teachers by the Managing Committee of the Schools or their approval of such appointment by the Bihar Sanskrit Shiksha Board for the purpose of their payment of salary from the funds released by the State Government by way of grant to these Sanskrit schools. This Court, in fact, had an occasion to notice as to how in absence of statutory rules, both, the authorities of the

Managing Committee and the officials of the Board, were playing havoc with the career of the teaching and non-teaching employees of these Sanskrit Schools as would become more apparent from the relevant portion of the order dated 10.01.2014 passed in C.W.J.C. No. 15594 of 2013 and C.W.J.C. No. 7286 of 2013 the two of the present set of writ petitions, which reads as follows:-

"2. In view of the specific nature of allegation made by the petitioner Arbind Kumar Choudhary that the Ad hoc Committee was constituted on 25.11.2011 at the instance of the father of the petitioner No. 1, namely, Narayani Kumari in second case i.e. C.W.J.C. No. 7286 of 2013 and father-in-law of Sanjeev Kumar Jha, the respondent no. 5 in the first case and this Ad hoc Committee initially took a decision to change the existing arrangement on the post of In-charge Head Master by removing the petitioner and replacing him with the respondent no. 5 and thereafter respondent no. 5 became instrumental in getting his wife Narayani Kumari, who is the daughter of aforesaid Girindra Mohan Mishra, appointed on the basis of an interview conducted on 11.01.2012 in which Sanjeev Kumar Jha had participated in capacity of the In-charge Head Master of Bharti Sanskrit High School, Basti, Samastipur (hereinafter referred to as 'the School') and that appointment of Narayani Kumari thereafter was made on 16.01.2012 which also received approval of the Bihar Sanskrit Shiksha Board (hereinafter referred to as 'the Board') on 10.01.2013 on the basis of which claim for payment of salary is being made by Narayani Kumari, this Court for the time being must restrain the Board/State Government and its officials from making any payment of salary from the funds of Government to Narayani Kumari till further orders.

3. In view of the chaos created by the Ad hoc Committee which came in office on 25.11.2011 in a limited period of six

months and surprisingly was given a lease of life after more than seven months of expiry of its life on 10.01.2013, this Court would also direct that pending the final disposal of these writ applications, the Ad hoc Committee dated 25.11.2011 and/or 10.1.2013 shall no longer continue in office. The Board is also therefore hereby directed by this Court to constitute a regular Managing Committee for the School within a period of three months from the date of receipt of this order.

4. It is made clear that in the constitution of the regular Managing Committee of the School, Girindra Mohan Mishra Paramhans will not be in any way allowed to be associated with inasmuch as he has a definite personal and pecuniary interest by way of protecting the service of his son-in-law Sanjeev Kumar Jha and his daughter Narayani Kumari.

5. Till such a Managing Committee is constituted by the Board (not by the Chairman but by the Board itself), the concerned Sub Divisional Officer shall function as the Chairman of the Ad hoc Committee, which is being now constituted under the order of this Court to continue in office till constitution of a regular Managing Committee and he shall be assisted by the concerned Block Development Officer and Block Education Officer as two other members of the aforesaid Ad-hoc Committee.

6. Mr. S. S. Sundaram, learned counsel appearing for the Board, has submitted that the Board would require submission of the list (Namika) for constitution of the regular Governing Body and since there is a dispute on the post of acting Head Master, this Court may clarify as to whose list namika will be accepted and acted upon by the Board.

7. In view of the fact that the respondent no. 5 is only a graduate teacher and he cannot become a Head Master of the School inasmuch as such post has to be invariably filled up by an Acharya teacher and there is also some allegation against the petitioner who holds the qualification of Acharya and was made earlier the acting Head Master, this Court would direct that it will be the senior most Acharya teacher of the School who shall function for the time being as In-

charge Head Master and in case it is the petitioner Arbind Kumar Choudhary who will continue as Incharge Headmaster and will also submit the list (Namika). If however, there be any teacher of the school having Acharya qualification who is still senior to the petitioner in the School holding the qualification of Acharya then in that case, only such person shall function as acting Head Master and would also submit the list (Namika) to the Board for constitution of regular Governing Body of the School.

8. Having regard to the nature of allegation made against Girindra Mohan Mishra Paramhans, this Court would direct for his being impleaded as respondent no. 6 in the first case and respondent no. 8 in second case i.e. C.W.J.C. No. 7286 of 2013. Let necessary correction be accordingly made by the learned counsel for the petitioner in the cage column in the writ petition in course of the day.

9. Issue notice to the newly added respondent no. 6 namely Girindra Mohan Mishra Paramhans both under ordinary process as also under registered cover with A/d for which requisites etc. must be filed within a period of one week from today, failing which this writ application against the newly added respondent no. 6 shall stand rejected without further reference to a Bench.

10. The ordinary notice shall be sent to the Secretary of the Board and it would be his duty to serve the notice on newly added respondent no. 6 Girindra Mohan Mishra Paramhans and file an affidavit with regard to its being served on him.

11. In the mean time, copy of the intervener application in C.W.J.C. No. 7286 of 2013 by the petitioner of the first case namely Arbind Kumar Choudhary also must be served on all the parties so that the same also becomes part of the notice of C.W.J.C. No. 7286 of 2013.

12. Having regard to the stinking nature of allegation surfacing in both these writ applications, this Court would direct the learned counsel for the State to produce the file relating to appointment of Mr. Girindra Mohan Mishra Paramhans, Member of the Board and additionally, it would also direct the counsel for the Board to produce the file in

which a decision was taken to constitute an Ad hoc Committee on 25.11.2011 in the School in question.

13. Learned counsel for the Board will additionally file his counter affidavit/ supplementary counter affidavit disclosing the provisions under which it has been authorized to approve the service of acting Head Master in a recognized Sanskrit School. Such affidavit will be sworn by the Secretary to the Board who is the author of both the orders approving either the service of the petitioner as acting Head Master or the respondent no. 5."

3. Subsequently, on 25.02.2014, yet another order was passed in the aforesaid two writ petitions, relevant portion whereof reads as follows:

" 3. Before this Court would decide the issue involved in these two writ applications certain long term measure is also required to be taken. The issue has been discussed in presence of the learned counsel for the petitioners as also Mr. Ajay Behari Sinha, learned counsel appearing on behalf of the State and Mr. Shashank Shekhar Jha, learned counsel appearing on behalf of Bihar Sanskrit Shiksha Board. There is an added assistance to this Court in presence of Mr. Vishwanath Prasad Singh and Mr. Tej Bahadur Singh, learned Senior counsels appearing on behalf of the private respondents.

4. The manner in which the Managing Committee/ Ad-hoc Committees have been framed in the school in question has put a question mark on the functioning of the Board. None of the counsel appearing in these cases has been able to produce any statutory provision made in terms of either Section 6 or Section 22 of Bihar Sanskrit Shiksha Board Act 1981 as with regard to the Rules or Regulations for constitution of the Managing Committee in the Sanskrit schools.

5. As is known the private recognized Sanskrit schools by

the Board have to perform certain public function, inasmuch as now in view of the schools at the level of Prathmik/ Prathmik Sah Madhya and even Uchcha Vidyalaya have become part of the scheme of Constitutional guarantee under Article 21A for providing free compulsory education upto the age of 15 years. In that view of the matter when 429 Sanskrit schools recognized prior to constitution of the present Board and in fact 223 Sanskrit schools who have been recognized after constitution of the Board with a definite committed liability of the State Government for payment of salary to its teaching and non-teaching employees as per prescribed Government staffing pattern the role of the Managing Committee in the functioning of the schools including making appointment or removal of teaching and non-teaching staff becomes very important and therefore, the constitution of the Managing Committee of the recognized Sanskrit Schools by the Board cannot be allowed to be made on the sweet will, of either the Secretary or of the Chairman of the Board. This Court has been informed that there is a Sub-Committee constituted by the Board for this purpose but then it has got no statutory status.

6. This Court, therefore, would direct the Principal Secretary of the Education Department to place this matter before the State Government for framing of the Rules/ Regulations for constitution of the Managing Committee in the recognized Sanskrit Schools.

7. Reverting to another important aspect, again emanating from the facts of this case, this Court finds that in absence of any statutory provisions for appointment of teaching and non-teaching employees in the recognized Sanskrit Schools, the Managing Committee and the Board are exercising their powers arbitrarily. There would be no difficulty in coming to a prima facie conclusion that in absence of such Rules laying down the service condition relating to appointment of teaching and non-teaching employees in Sanskrit schools there has been an utter confusion. Like in the present case the services of the petitioner Arbind Kumr Choudhary was once approved by the Secretary to the Board. His working



arrangement as an In-charge Headmaster was once approved by the Chairman of the Board and again these arrangements have been found to be bad by the Special Director in his appellate order. There would not be any difficulty in approving such order of the Special Director but then the question still would remain as to where is the statutory provision with regard to giving approval of the service either of Headmaster or teacher by the Board or its Chairman and the Secretary. Till now everything has remained in the domain of the executive instruction or some past precedent on the basis of circulars. Time has therefore come when the Government should codify the whole issue by laying down statutory norms for regulating the service condition of teaching and non-teaching employees of the recognized Sanskrit schools, inasmuch as large section of them are also receiving payment of salary from the fund of the State Government.

8. The State Government will thus also be required to address itself to other aspect relating to framing of service conditions of teaching and non-teaching employees of recognized Sanskrit schools. Section 20 had envisaged that the services of teachers and non-teaching employees of recognized Sanskrit schools and Tols may be placed to the Board by the State Government under the date fixed by the notification in the official gazette and from that date the teaching and non-teaching staff shall be treated to be under the service of the Board. This could not have been achieved and in fact was never achieved. In fact when 429 recognized Sanskrit schools were made Government Sanskrit Schools in terms of Ordinance No. 32 of 1989 and its replacing ordinances that also was finally allowed to lapse on 1.5.1992. In that view of the matter, this Court would expect the State Government to at least exercise its power under section 22(2)(k) of the Act which authorizes the Government to frame Rules for framing the service condition and appointment of teachers and other staff of recognized Sanskrit school and Tols.

9. Let it be kept in mind that somewhat a similar statutory

provision has been made with regard to appointment and approval of teaching and non-teaching employees in the minority schools by giving it a statutory protection under section 18 of the Bihar Non-Government Secondary School Taking Over Act, 1981 wherein on the basis of the modalities the power of approval of the appointment of teaching and non-teaching employees in minority schools have been vested in the Director Secondary Education. Thus not exactly and necessarily on the same pattern but at least something of that nature has to be also provided by framing of Rules/Regulations for laying down the service conditions including appointment and termination of service of teaching and non-teaching employees of recognized Sanskrit school in order to make the whole object of Sanskrit education meaningful in this State.

10. Keeping in view these aspects this Court would also direct the Principal Secretary of Education Department to examine this issue as well and obtain an order of the State Government for framing the service conditions including mode and manner of appointment of teaching and non-teaching employees of recognized Sanskrit schools and their manner of approval by the Board or by any other prescribed authority, may be the Special Director of the State Government.

11. Let both these cases, therefore, be listed again on 14th March, 2014 when Mr. A.B.Sinha learned Standing Counsel no. 19 having obtained instruction from the Principal Secretary of Education will file an affidavit which may be sworn either by the Principal Secretary himself or Special Director, Sanskrit Education placing the necessary Government decision as with regard to framing of the Rules for constitution of the Managing Committee in Sanskrit schools as also laying down the service condition including the manner of appointment and removal of teaching and non-teaching employees in recognized Sanskrit schools and their approval by the Board and State Government."

4. Thereafter, the matter was adjourned by this Court on 28.03.2014, 24.09.2014, 26.09.2014, 22.10.2014, 10.12.2014 and 28.01.2015 awaiting framing of the statutory rules.

5. At long last, the respondents have been able to produce the rules notified in Bihar Gazette on 26.02.2015 which has also come into force.

6. In view of the fact that a large number of disputes have arisen only on account of there being no definite rules and procedures and now that the rules have been framed, this Court would dispose of all these six writ applications with a direction to the Chairman and Secretary of the Bihar Sanskrit Shiksha Board (hereinafter referred to as 'the Board') to get all these matters resolved/decided by the Board within a period of three months from the date of receipt of a copy of this order and take a decision strictly in accordance with the rules notified in the Gazette on 26.02.2015.

7. While this Court must appreciate the efforts of Mr. R.K.Mahajan, the Departmental Principal Secretary in at least getting the rules cleared at the governmental level and also notified, which in turn is expected to restore some sort of sanity and transparency in the functioning of the recognized non-governmental Sanskrit Schools particularly, those recognized non-

governmental Sanskrit Schools where the payment of salary is being made from the funds released by the State Government, this Court would also record the undertaking given by Mr. Mahajan that certain clarification in Rule 8 of the Bihar State Non-Government Sanskrit High School (Service Conditions), Rules, 1976 with regard to the Board alone being the competent authority to either approve the appointment made by the Managing Committee or refuse such appointment, would be issued under the powers of the Government to remove the difficulties in the rules.

8. This Court also must make it clear that now when the power has been vested specially for taking all the important decisions only in the Board, as per the provisions made in the Act and the Rules, the State Government will be well advised to either nominate a fresh an authorized Government officer in terms of Section 24 of the Bihar Sanskrit Shiksha Board Act by way of an appellate authority to dispose of the appeals arising out of decisions of the Board and/or its officials including the Chairman and the Secretary because the Special Director cannot be at one place be appellate authority and at the other place a Member of the Board. The Departmental Secretary, in fact, has himself assured that necessary guidelines/Notification will be issued in this regard within a period of four weeks from the date of receipt of copy of

this order.

9. With the aforementioned observations and directions, all these writ applications are disposed of.

Re.: M.J.C. No. 3737 of 2014:

10. Mr. Tej Bahadur Singh, learned senior counsel for the petitioner, has submitted that the Chairman and the Secretary to the Bihar Sanskrit Shiksha Board had acted in defiance of the order passed by this Court on 28.03.2014 passed in C.W.J.C. No. 15594 of 2013 and its analogous cases, which have also been heard today and disposed of by the present order.

11. According to him, Annexure-2 series in the contempt petition containing the order dated 27.08.2014 approving the promotion of Arvind Kumar Choudhary as also approval of services of eight teachers of Bharti Sanskrit High Schools, Basti, Samastipur, would amount to committing contempt by the Chairman and Secretary to the Board.

12. Mr. S.S. Sundaram, learned counsel appearing on behalf of the Board, on the other hand, has submitted that the order dated 27.08.2014 so far it relates to constitution of the Managing Committee of eight persons including nominating Arvind Kumar Choudhary as the Headmaster, would not amount to causing disobedience of the order of this Court because on

28.03.2014, an order was passed by this Court in the connected writ application being C.W.J.C. No. 15594 of 2013.

13. This Court, on perusal of the order dated 10.01.2014 in C.W.J.C. No. 15594 of 2013, would find that a direction has been given to the Board and not to the Chairman or the Secretary to constitute the Managing Committee. The relevant portion of the order of this Court dated 10.01.2014 reads as follows:

"3. In view of the chaos created by the Ad hoc Committee which came in office on 25.11.2011 in a limited period of six months and surprisingly was given a lease of life after more than seven months of expiry of its life on 10.01.2013, this Court would also direct that pending the final disposal of these writ applications, the Ad hoc Committee dated 25.11.2011 and/or 10.01.2013 shall no longer continue in office. The Board is also therefore hereby directed by this Court to constitute a regular Managing Committee for the School within a period of three months from the date of receipt of this order."

14. From perusal of the order dated 27.08.2014 constituting the Managing Committee it becomes very clear that the said Managing Committee was constituted under the orders of the Chairman of the Board and not by the Board itself. Therefore, this Court will have no difficulty in coming to the conclusion that when this order dated 27.08.2014 was issued under the order of the Chairman of the Board, the same was definitely in violation of

the directions given in the order dated 10.01.2014.

15. Let it be noted kept in mind that this Court had passed another order on 28.03.2014 in the batch of writ applications restraining the Chairman/Secretary to the Board to give any sort of recognition to any teaching employee of the recognized Sanskrit Schools till further orders of this Court and therefore if the Secretary to the Board had found it necessary to approve the promotion of Arvind Kumar Choudhary on the post of Headmaster, he had to approach this Court seeking specific approval and permission instead of issuing an order.

16. By now, law is well settled that any order passed by any authority in violation of the court's directions/orders is nullity in the eye of law. Reference in this connection may be usefully made to the judgment of Apex Court in the case of ***Delhi Development Authority vs. The Skipper Construction Co.(P) Ltd***, reported in ***1996 (4) SCC 622***.

17. Thus, there will be no difficulty in holding that the two orders passed one by the Secretary to the Board and the other by the Chairman to the Board dated 27.08.2014, as discussed above, are not in keeping with the orders passed by this Court. They are accordingly set aside and the Chairman of the Board is now directed to place the whole matters either relating to the

constitution of the Managing Committee or with regard to giving approval to promotion of Arvind Kumar Choudhary on the post of Headmaster before the Board, which shall take an appropriate decision in accordance with law.

18. It is, however, made clear that since Mr. Girindra Mohan Paramhans has a vital interest by way of protecting the cause of his daughter Narayani Kumari and son-in-law Sanjeev Kumar Jha, the petitioner of this contempt application, he shall not be allowed to participate in course of taking such decision by the Board in any manner on any issue relating to the constitution of the Managing Committee and/or recognition of the services of Arvind Kumar Choudhary on the post of Headmaster of the School.

19. Though this Court will not say anything further with regard to continuation of Mr. Girindra Mohan Paramhansa as a Member of the Board but the State Government now must reconsider to constitute the Board which must have its Chairman and Members, who have not only the proven track record of being recognized in the field of Sanskrit, but they also have got no personal or pecuniary interest in the recognized Sanskrit School. This would be necessary to ward off the situation like in the present case where on account of presence of Mr. Girindra Mohan

Paramhans, as a Member of the Board, things had really deteriorated in course of taking decision by the Board in relation to either constitution of the Managing Committee or approval of services of the teachers inasmuch Mr. Paramhans was alleged to have been espousing the cause of his daughter Narayani Kumari and son-in-law Sanjeev Kumar Jha both also claiming to be the teacher of the same recognized Sanskrit School. The State Government therefore must specifically address itself to the issue of continuation of Mr. Girindra Mohan Paramhans as a Member of the Board and take a conscious decision with regard to his continuation or otherwise as a Member of the Board within a period of three months from the date of receipt of a copy of this order.

20. With the aforementioned observations and directions, this contempt petition is also disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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