

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22039 of 2014

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Mumtaz Alam son of Late Abdul Haliz resident of Mohalla T.Model School
Lane, G.B.Road, Gaya

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director (Admn) cum-Addl. Secretary, Department of Education,
Govt. of Bihar, Patna.
3. The special Director, Secretary, Department of Education, Govt. of
Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Khurshid Alam &
Mr. Md. Nasem Mukhtar, Adv.

For the Respondent/s : Mr. Roy Shivajee Nath, AAG-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 12-01-2015 Heard learned counsel for the petitioner and for the
respondents.

In this case petitioner is challenging the Memo No.
833 dated 212th December 2014 (Annexure-10) by which
petitioner has been removed from the post of Chairman, Bihar
Madarsa Board and Memo No. 8343 dated 12th December 2014
(Annexure-10/a) by which the Special Director (Secondary)
Education has been made in-charge Chairman of the Board.

This Court is not going into the merit of the case but
is disposing of this petition on short point. The tenure of the
Chairman has come to an end on 4th January 2015. A PIL being
CWJC No. 7870 of 2014 has been filed by Dr. Anjum Hashmi

which led to these events and the Division Bench is still in seisin of the mater and this Court is not going to give any comment on the conduct of any of the parties.

It appears that the Special Director who was appointed to enquire into the conduct of the petitioner after enquiry, annexing the enquiry report, vide letter dated 21st November 2014 (Annexure-8) the petitioner was asked to file show cause within a week and the petitioner filed his show cause on 1st December 2014 i.e. explaining his stand. The Director, (Administrator Addl. Secretary, Respondent no.2) while passing the impugned order against the petitioner was required to take into consideration the show cause filed by him but from the impugned order (Annexure-10), where there is specific statement that the show cause notice was issued to the petitioner and he did not file the same which is per say completely an error of fact. The fact is that he had filed the show cause on the last date and the order has been passed on 12th December 2014 which itself shows non-application of mind.

In this view of the matter, the impugned order, vide Memo No. 833 dated 12th December 2014 (Annexure-10) is hereby quashed. As the period of the petitioner is over, this Court cannot give direction for reinstatement but the Government will

consider his show cause and if so advised he may give personal hearing to the petitioner and take a decision on merit. As the tenure as Chairman came to an end, no order of effective relief can be passed in favour of petitioner.

The conduct of the petitioner and others is already under consideration before the Division Bench in PIL.

With this observation and direction, this petition is allowed.

(Shivaji Pandey, J)

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