

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.761 of 2014
IN
Civil Writ Jurisdiction Case No. 3050 of 2013**

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Abdul Qaiyum son of Late Haji Shariatullah, Resident of Village- Sikorna, Police Station- Kadwa, District- Katihar, Suspended, Head Maulvi, Madarsa Darul Hoda Sikorna, P.S. Kadwa, District- Katihar

.... Respondent no.9- Appellant

Versus

1. Dr. A.Ali, son of Late Md. Reyazuddin, Resident of village and P.O. Salmari, District- Katihar claiming to be Secretary of the New Managing Committee of Madarsa Darul Hoda Sikorna, P.S. Kadwa, District- Katihar...Petitioner- Respondent 1st Party
2. The State of Bihar
- 3.The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna
4. Lakshman Kumar Singh, the Special Director, Secondary Education, New Secretariat, Patna- 1
5. The District Education Officer, Katihar
6. The Bihar State Madarsa Education Board, Patna through its Secretary, Vidyapati Marg, Patna- 1
7. The Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna
8. The Secretary, Bihar State Madarsa Education Board, Vidyapati Marg, Patna
9. Md. Ekramul Haque son of Noor Mohammad, resident of village- Sikorna, Police Station- Jhausa, District- Katihar

.... Respondents 2nd Party -Respondents

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Appearance :

For the Appellant/s : Mr. Md. Najmul Hodda

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG 14

Mr. Shankar Kumar Choudhary, AC to AAG 14

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 06-02-2015

There was a dispute as to the management of a Madarsa between the appellant herein on the one hand and the respondents on the other hand. In relation to that, the appellant approached the Special Director, Secondary Education, 3rd respondent, who in turn passed an order dated 9.1.2013 in favour of the appellant. Challenging the said order the 1st respondent filed CWJC No. 3050 of 2013 in this Court. The principal ground urged by him was that the appellate power in such matters is conferred upon the Principal Secretary, 2nd respondent, and not upon the Special Director, Secondary Education. The learned Single Judge accepted the contention and allowed the writ petition. The order impugned in the writ petition was set aside through order dated 26.2.2014 and it was left open to the appellant herein to pursue the remedy in accordance with law before the 2nd respondent.

Hence this appeal, challenging the order dated 26.2.2014 passed by the learned Single Judge in CWJC No. 3050 of 2013.

Heard Sri Najmul Hoda, learned counsel for the appellant and Sri Kaushal Kumar Jha, learned counsel for the State.

The only ground on which the writ petition was allowed was that the 3rd respondent lacked jurisdiction to entertain the appeal. Learned counsel for the appellant is not able to demonstrate that 3rd respondent is conferred with the appellate jurisdiction. We do not find any basis to entertain the appeal.

Appeal is accordingly dismissed. We direct that in case the appellant files an appeal before the 2nd respondent, he shall dispose of the same as early as possible, preferably within three months from the date of representation, after issuing notice to the affected parties.

Interlocutory Applications shall stand disposed of.
There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Vikash Jain, J)

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