

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.168 of 2013

In
Civil Writ Jurisdiction Case No. 9016 of 2004

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Bijay Kumar Yadav , son of Late Mohan Yadav , resident of Village -
Sundardin (Sarha) P.O. Bhalar, P.S. Dharhara, District - Munger

.... Petitioner

Versus

1. The State Of Bihar
2. The Bihar School Examination Board, Bihar, Patna, Budh Marg, Patna
Through Its Chairman, Namely Sri Rajmani Prasad Sinha
3. The Chairman, Namely Sri Rajmani Prasad Sinha, Bihar School
Examination Board, Patna
4. The Secretary, namely Sri Lalan Jha, Bihar School Examination Board,
Patna
5. The Civil Sub - Divisional Officer, Munger Sri Mahesh Das
6. The Bihar Rajya Arya Partinidhi Sabha Through Its Secretary, Patna
Namely Sri Shyam Kishore Sharma
7. The President, Sri Nawal Kishore Shastri, Bihar Rajya Arya Partinidhi
Sabha, Patna
8. Om Prakash Yadav, Secretary Of The New Committee, D.A.V. Mahila
Mahavidyalaya, Jamalpur, Munger
9. Shiv Shankar Prasad, Ex-Secretary Of The Old Committee, D.A.V.
Mahila Mahavidyalaya, Jamalpur, Munger

.... Contemnors- Opposite Parties

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Appearance :

For the Petitioner :

For the Contemnors- Opposite Parties :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL ORDER

19 16-01-2015 Heard learned counsel for the petitioner, learned AC to

SC No. 25 as well as learned counsel, who has appeared on behalf

of Bihar School Examination Board.

The present petition was filed with a prayer to initiate contempt proceeding against opposite parties on an allegation of willful disobedience to an order dated 2/12/2010 passed in CWJC No. 9016 of 2004.

By the said order, while disposing of the writ petition the petitioner was directed to file representation before the Civil S.D.O, Munger. The S.D.O. was directed to consider the factual aspects and send recommendations to the Chairman, Bihar School Examination Board, Bihar, Patna. As per direction of the writ court S.D.O. was required to pass a reasoned order within a period of three months. This order was passed on 2/12/2010, however, the petitioner filed representation belatedly on 1/8/2011 before the Civil Sub Divisional Officer. Finally, in the year 2013 order was passed by the S.D.O. and matter was recommended to the Chairman, Bihar School Examination Board to examine and pass order in compliance with the order of the writ court.

In this case show cause and supplementary show cause has been filed on behalf of opposite parties particularly on behalf of Chairman, Bihar School Examination Board, wherein, it has been indicated that after receipt of the recommendations matter was examined by the Chairman and since in the year 2011 itself



the Bihar School Examination Board Regulation, 2011 had come into effect whereby all such powers were to be exercised by the School Managing Committee, no positive order was passed. Fact remains that the petitioner was an employee in a School being managed by the Managing Committee and as such the Chairman, Bihar School Examination Board on 3/1/2014 firstly passed an order indicating therein that in view of new Regulation, he is not competent to pass any order. The matter was again examined by this court.

In this case additional show cause and second additional show cause have also been filed by the Chairman, Bihar School Examination Board, wherein said point has been reiterated.

Learned counsel for the petitioner argues that since direction was issued by this court in 2010 itself, the Chairman was required to pass order.

Besides hearing learned counsel for the parties, I have also examined the materials available on record.

It is true that order by the writ court was passed in the year 2010 but representation was filed by petitioner on 1.8.2011 (Annexure -2), after the new Regulation had come, and as such, the Chairman, Bihar School Examination Board had

rightly passed order indicating that it can be examined by the Managing Committee of the School itself.

In view of subsequent development, the court is of the opinion that the Chairman, Bihar School Examination Board has rightly passed order. If so advised, the petitioner may avail appropriate remedy.

The petition stands disposed of.

(Rakesh Kumar, J)

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