

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 20903 of 2014

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Matiur Rahman, son of Late Md. Idris aged about 52 years, resident of village- -
Pachahi, P.s. – Madhepur, District – Madhubani at present Secretary, Managing
Committee, Madarsa Islamia Nooria Pachahi Village- Pachahi, P.S. – Madhepur,
District – Madhubani

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Government of Bihar, Vikas Bhawan, Patna
2. Principal Secretary, Education Department, Government of Bihar, Vikas
Bhawan, Patha
3. Special Secretary, Education Department, Government of Bihar, Vikas Bhawan,
Patha
4. Director, Higher Education, Education Department, Government of Bihar,
Vikas Bhawan, Patha
5. Special Director, Secondary Education Department, Government of Bihar,
Vikas Bhawan, Patha
6. Dr. Anjum Hashmi, son of Dr. Lutfur Rahman, resident of village- & P.O. –
Pachahi, P.S. – Madhepur, District – Madhubani
7. The Chairman, Bihar State Madarsa Education Board, 5 – Vidyapati Marg, Patna
8. The Secretary, Bihar State Madarsa Education Board, 5- Vidyapati Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alim Jang Khan
For the Madarsa Board:		Mr. Rashid Alam
For the State:		Mr. Manish Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 22-04-2016

Heard learned counsel for the parties.

Annexure-2, dated 08.09.2014 is the notification issued by
the Principal Secretary, Department of Education, Government of
Bihar, authorizing the Director, Higher Education, Government of
Bihar to hear appeals under section 28 of the Bihar State Madarsa
Board Act, 1981. Subsequently by yet another notification this power
has been vested in Joint Director, Secondary Education,

Government of Bihar, which is notification dated 20th of April, 2015.

Submission of learned counsel for the petitioner is that a reading of section 28 would indicate that power is vested in the ‘State’ and wide definition available in the General Clauses Act, the Constitution of India and the decisions, which have been rendered by the Hon’ble Apex Court, no one less than the Secretary to Government can hear such appeals.

The questions sought to be raised by the present petitioner has been already considered and answered decades ago in the case of *Abdul Azeem Haidri versus The State of Bihar and others, reported in 2001 (3) BLJ 83; Managing Committee, Madarsa Islamia Falahul Muslemeen, Sheohar & others versus The State of Bihar & others, reported in 1995 (2) P.L.J.R. 447 and also reiterated in the case of Md. Shamir Jung Khan versus The State of Bihar, reported in 2010 (1) PLJR 149.*

The Court, therefore, does not have to decide the matter de novo, since these questions have already been answered in those decisions.

Writ application is, therefore, dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	25.04.2016
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