

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21361 of 2014

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1. Aryind Kumar Singh, Son of Late Ramraj Singh, Resident of Village Kusi, Police Station + District - Aurangabad, Bihar. At present Principal of Bhagwan Shri Surya Narayan Inter College, Deo, Aurangabad.
 2. Madan singh @ Madan Prasad Singh, Son of Late Braj Bahadur Singh, Resident of Village Dattu Bigha, P.S.- Deo, District - Aurangabad, Bihar. At present Secretary of Bhagwan Shri Surya Narayan Inter College, Deo, Aurangabad.

.... Petitioners

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Chairman, Bihar School Examination Board (Higher Secondary), Patna.
5. The Secretary, Bihar School Examination Board (Higher Secondary), Patna.
6. The District Magistrate, Aurangabad, Bihar.
7. The Sub Divisional Officer, Deo, Aurangabad, Bihar.
8. The Director, National Employment Programme, Aurangabad, Bihar.
9. The District Education Officer, Aurangabad, Bihar.
10. The District Programme Officer (Establishment), Aurangabad, Bihar.
11. Lavalesh Kumar Singh, Son of Late Ram Janam Singh, Resident of Village Dehri, P.O. Poeewa, Police Station Muffasil, District Aurangabad, Bihar.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Aditya Narain Singh, Advocate Mr. Amrendra Kumar Singh, Advocate
For the State	:	Mr. Avinash Kumar, S.C.30 Mr. Manoj Kumar Sinha, A.C. to S.C.30
For Res. No.11	:	Mr. Chakrapani, Advocate Mr. Sanjay Kumar Singh, Advocate
For Exam. Board	:	Mr. Gyan Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 16-05-2016

Heard counsel for the petitioners, counsel for the State,
counsel for Examination Board as well as counsel for private
respondent no.11.

2. Old saying is that there cannot be smoke without fire. It



is not the magnitude of the fire which is of relevance but then if the telltale signs have emerged, may be on an administrative enquiry initiated not once but twice over, then the Court will not get into the controversy by sitting in appeal over the contents of the two enquiries with regard to an affiliated intermediate college, which involves financial irregularities as being alleged.

3. The Court may have had an occasion to may be comment in the light of the prayer made in the present writ application on behalf of the petitioners if it was limited to the two reports of enquiry, one held in the year 2012 and the other one in the year 2014, but the Court is informed and also is made aware that even a criminal proceeding has been set into motion and investigation is still on.

4. A supervision note at the level of the Dy.S.P. has also been brought on record on behalf of the State in their counter affidavit which does not in any manner make things look any cleaner than what is alleged against the petitioners in matter of utilization of grant in aid in the college.

5. Since any observation or comments made by the Court in its writ application may be used or misused either by the petitioners or the prosecution, the Court will resist from commenting upon the correctness or otherwise of any of these reports at this juncture. Even

otherwise those reports have lost their relevance in view of the investigations which has gone some distance.

6. It will be in the interest of things that the Superintendent of Police, Aurangabad looks into the matter and ensures that Deo P.S. Case No.66 of 2013 is taken to its logical end because almost three years has elapsed in the process of investigation and supervision.

7. One thing, however, is of concern to this Court that a 1983 institution cannot be made to suffer at the hands of either of the petitioners or certain vested interest, as is being alleged by learned counsel for the petitioners, at the cost of the institution and the students who are pursuing their studies in the said institution. The institution has suffered in the past also when admissions were stopped. That position stands reversed now and the Bihar School Examination Board, therefore, would be well advised to see that merely on complaints received from one quarter or the other, the admissions and the teaching is neither stopped or is made to suffer.

8. So far as the financial aid assistance and its utilization is concerned, since it is a matter of allotment by the State Government from public exchequer, the District Magistrate, Aurangabad would be well advised to advise the Chairman of the Bihar School Examination to depute a person or incorporate in the Managing Committee a

person who shall be saddled with the responsibility of handling finances for the college in question. May be more than one person can be authorized to deal with funds but, credibility of such a person and the holder of such responsibility must be thoroughly looked into and the District Magistrate, Aurangabad must satisfy himself before recommending such a name.

9. The rest of the battles can be fought out either in a criminal court or may be a civil court where such disputes within the Managing Committees can be looked into. No other direction or order is required in the present writ application over and above, what has been commented above.

10. Writ application stands disposed of in terms of the above observations.

(Ajay Kumar Tripathi, J.)

SanjayKumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	17.05.2016
Transmission Date	