

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9142 of 2016

- =====
1. Deen Dayal Yadav Madhyamik Sah Uchya Madhyamik Vidyalaya through its Principal-cum-Secretary, Anita Kumari.
 2. Anita Kumari, Principal-cum-Secretary, Deen Dayal Yadav Madhyamik -Sah-Uchya Madhyamik Vidyalaya Both residents of Krishnadih, P.O.-Barahatt, P.S. & District-Banka.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar School Examination Board, Higher Secondary, through its Secretary, Budh Marg, Patna.
4. The Secretary, the Bihar School Examination Board, Higher Secondary, Budh Marg, Patna.
5. The District Education Officer, Banka.
6. The Director, Higher Education, Education Department, Government of Bihar, Patna.
7. The Deputy Secretary, the Bihar School Examination Board, Patna.

.... Respondents

=====

Appearance :

For the Petitioners	:	Mr. Y.V. Giri, Senior Advocate Mr. Ramadhar Shekhar, Advocate
	:	Mr. Binod Kumar Singh, Advocate
For the State	:	Mr. Kumar Priya Ranjan, S.C.23 Mr. Vasant Vikas, A.C. to S.C.23
For B.S.E.B.	:	Mr. Gyan Shankar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 19-07-2016

Heard learned senior counsel for the petitioners, learned
counsel for the Examination Board and the State.

2. The school set up by the husband of petitioner no.2,
of which she is the Principal-cum-Secretary, was granted provisional
affiliation and recognition by the Bihar School Examination Board for
the session 2012-14. It seems that the institution was made into a

family affair despite being involved in a public duty and, therefore, a question was raised on the floor of the Bihar Legislative Council with regard to the working and the manner in which the institution was being run under the nose of the authorities.

3. The Bihar School Examination Board swung into action, decided to withdraw the code issued to the institution and permitted the students of the school to appear from another school. Now after issuance of Annexure-1, dated 23.01.2016, an order dated 03.03.2016 has been passed by the Examination Board where the affiliation granted to the school has been annulled and the code given to the school has been cancelled. This order is Annexure-14 to I.A. No.5707 of 2016 which is allowed.

4. Submission of learned senior counsel is that this decision has been taken unilaterally. The question raised on the floor of the House was motivated. There is a running feud going on between the Member of the Legislative Council as well as the family and no opportunity of hearing was given to the petitioners before passing the impugned order contained in Annexure-1 and Annexure-14.

5. The Court will not get into that dispute because anyway the affiliation given by the Examination Board was only provisional and for the batch of 2012-14. The story is over. The

students have already participated in the examination, therefore, that aspect of the dispute and the chapter has to be closed.

6. Learned senior counsel for the petitioners submits that a fresh application has been made for the batch of 2013-15 and even inspection has been held. In that view of the matter, the previous decisions need to be quashed since it will prejudice in future decision making.

7. The apprehension expressed at the bar in this regard is a case of over reaction. If it was a case of permanent affiliation, the Court may have occasion to consider the impact of such a decision but since it was a provisional affiliation limited to a year, a fresh beginning is required to be made by the petitioners by approaching the authorities for a fresh decision.

8. The petitioners will approach the Secretary of the Bihar School Examination Board with his application for fresh affiliation. The Board including the Chairman of the Board will take a decision in accordance with the prevalent Rules afresh irrespective of what may have compelled the authorities to act in the manner they have acted in taking the previous decision.

9. However, the authorities will surely keep in mind whether the institution is a public body or a private enterprise of one family created with the objective of making profit from the public

fund and funding before taking any call or decision with regard to the affiliation.

10. Writ application is disposed of with observation and direction as above.

(Ajay Kumar Tripathi, J.)

SanjayKumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	20.07.2016
Transmission Date	