

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.680 of 2016

IN

Civil Writ Jurisdiction Case No. 6554 of 2014

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Bibi Samima Khatoon, Wife of Late Md. Hamza, resident of Village - Barhajal,
P.S. Barsoi, District - Katihar, Secretary of Madarsa Aziziaq Perhajal, P.S. Barsoi,
District - Katihar

.... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Bihar State Madarsa Education Board, Vidyapati Marg, Patna through its Secretary.
3. The Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna
4. The Secretary, Bihar State Madarsa Education Board, Vidyapati Marg, Patna
5. The Special Director, Secondary Education, Bihar, Patna
6. The District Education Officer, Katihar
7. Abul Kalam, son of Late Md. Ishak, Resident of Village - Berhajal, P.S. Barsoi, District - Katihar

.... Respondents

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Appearance :

For the Appellant : Mr. Md. Anisur Rahman, Advocate.

For the Madarsa Board : Mr. Md. Rashid Alam, Advocate.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 28-11-2016

Heard learned counsel for the appellant and learned
counsel for the respondents.

2. The challenge in the present Letters Patent Appeal is
to an order passed by the learned Single Bench on 17th of September,
2015 in CWJC No. 6554 of 2014 whereby it was held that the relief
claimed in the present writ petition is a disputed question of fact
which cannot be entertained in a summary proceeding under Article
226 of the Constitution of India.

3. The appellant claims to be Secretary of Madarsa Azizia Perhahal, Police Station- Barsoi, District- Katihar, whereas on the other hand, respondent no.7 claims to be Secretary of the said Madars on the basis of the notification of the State Government after conduct of an enquiry.

4. Learned Single Bench has rightly found that the allegation that the whole enquiry is vitiated and manipulated which cannot be examined in the writ application. Such question is required to be raised and decided by the Civil Court.

5. We find that the appellant is raising a issue which is a disputed question of fact and the same can better be decided by the Civil Court.

6. Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed. The appellant is at liberty to avail the alternative remedy as she may choose to avail in accordance with law.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

B.T/Ibrar

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