

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.11219 of 2014

1. The Managing Committee of Madarsa Islamia, Madarsa No. 1043, Rahmanganj, P.O. Tulapatganj, Police Station - Jhanjharpur, District - Madhubani through its Secretary Md. Ashfaque Alam son of Late Jamil Akhtar R/o village - Rahmanganj, P.O. Tulapatganj, P.S. Phulparas, District - Madhubani.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Special Director, Secondary Education, Govt. of Bihar, Patna.
4. The Bihar State Madarsa Education Board, 5-Vidyapati Marg, Patna through its Chairman.
5. The Chairman, Bihar State Madarsa Education Board, 5-Vidyapati Marg, Patna.
6. The Secretary, Bihar State Madarsa Education Board, 5-Vidyapati Marg, Patna.
7. The District Education Officer, Madhubani.
8. The Block Education Officer, Phulparas, District - Madhubani.
9. Managing Committee (so called and self) of Madarsa Islamia Rahmanganj, P.O. Tulapatganj, P.S. Phulparas, District - Madhubani through its President Md. Adil.
10. Md. Adil son of Late Md. Fazle
11. Md. Saghir Alam son of Late Noor Mohammad No. 9 President and No. 10 Secretary of (so called self) Managing Committee of Madarsa Islamia Rahmanganj, P.O. Tulapatganj, P.S. Phulparas, District - Madhubani.

.... .... Respondent/s

#### Appearance :

For the Petitioner/s : Mr. Shabbir Ahmad  
For the Madarsa Board: Mr. Md. Rashid Alam  
For the Private respondent: Mr. Alim Jung Khan

**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 01-08-2016**

Heard learned counsels for the parties.

Annexure – 5 is the order, passed by the Special Secretary in Appeal No. 37 of 2013. The said order is Annexure – 5 and dated 27.03.2014. Petitioner wants quashing of this order, because the Special Secretary after hearing the parties, has rejected the assertion of the petitioner with regard to his status as the person

or persons, who are said to be at the helms of affairs of the Madarsa No. 1043, situated in the district of Madhubani. Since, by virtue of the said order, recognition has been given to the committee of Respondent Nos. 9 to 11, there is obvious reason why the petitioner would like the said order to be quashed.

There is long battle going on for control of the Madarsa in question by two different fractions, claiming themselves to be the authority, having control as well as support of the local people in matter of formation of a managing committee. The petitioners claim that they are the ones, who represent the true interests and the will of the people. Private respondents have also contested that position and they too assert that they are the ones, who are recognized by the people and they were constituted by virtue of a meeting held in this regard by the peopling living in the area and the village in question, where the Madarsa is situated.

The dispute and the enquiry made in this regard traveled to the Madarsa Board. The Madarsa Board gave an opportunity of hearing to the contesting parties and an order was passed in favour of the private respondents. Not satisfied with such a decision of the Chairman, the order was taken in appeal before the Special Secretary by filing Appeal No. 37 of 2013. The appellate authority after due consideration has rejected the appeal and held the order, dated 24.07.2013, passed by the Madarsa Board to be correct.

Two things are of significance. The concurrent findings

are against the petitioner. Both the findings have been given at the level of two different statutory authorities. One, after an opportunity of hearing taken at the level of the Madarsa Board; and second, after an opportunity of hearing at the level of the Special Secretary.

At least from reading of the order of the Special Secretary, it emerges that whatever evidence and materials were pressed into service in favour or against as to who represents the managing committee of the Madarsa has been taken into consideration and amply dealt with. The preponderance of finding, which are again based on record has, led to only one conclusion that the managing committee headed by the Chairman and the Secretary, whose names figure in the impugned order, are ones, who have recognition and validity on the materials available on record. They happen to be the respondents 9 to 11.

A desperate effort was made on behalf of the petitioner that both the decisions are erroneous in the sense that recognition has been given to only two people, i.e., the Chairman and the Secretary of the Madarsa, because only these two names figures in the order. It can never be seen or contemplated that a managing committee will consist of only two people and that by itself shows that the committee of the private respondent is a sham and that is good enough for this Court to strike down the decision impugned.

The Court had its reservation on such a submission having been made at the bar. Still to verify the actual state of affairs



the Court directed the counsel of the Madarsa Board to procure the original records relating to the decision, which was taken at the level of the Madarsa Board, in the fight between the petitioner and the private respondents. The records do not support what was urged on behalf of the petitioner that the committee only consists of two people and recognition was given by the Madarsa Board to only two people. It is a full fledged committee, which has been given recognition. If this is so then such a submission was made only to create prejudice with regard to the decision making and the validity of such a committee.

The Court has gone through the impugned order in quite a detail. It has noticed that all the submissions, which were made before the Special Secretary on behalf of the appellant, who happens to be the petitioner here, has been duly entertained and answered upfront. However, if the petitioner failed to succeed in making out a case with regard to the correctness or otherwise of their managing committee, the evidence being loaded against him, the finding, which has been reached by the Special Secretary is not required to be re-opened and re-heard only at the asking of the petitioner.

The Court does not find any legal infirmity either with the rationale or reasoning as well as the finding and conclusion, so reached, because they are based on what was produced by the contestants before the Special Secretary. The Court also is of the

opinion that it does not have original jurisdiction over such matter, the power of judicial review is only to be prima facie satisfied with regard to the manner in which findings have been reached and whether parties have been given adequate opportunity and right of hearing. On both the fronts, the Court is fully satisfied.

In view of the aforesaid facts and circumstances, the writ application requires to be dismissed and is dismissed.

**(Ajay Kumar Tripathi, J)**

SKM/-

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