

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15273 of 2015**

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Lala Ajai Kumar 'Karn' son of Late Daroga Lal, Resident of Village Mozafara, P.S. Islampur, District Nalanda, At present Headmaster, Sanjay Gandhi Night High School, Bhainsasur, Biharsharif, P.S. Biharsharif, District Nalanda.

.... .... Petitioner

Versus

1. The State of Bihar through Principal Secretary to Government of Bihar, Education Department, Vikas Bhawan, Patna.
2. Director, Secondary Education, Bihar, Patna, Budh Marg, Patna.
3. Deputy Director, Secondary Education, Bihar, Patna, Budh Marg, Patna.
4. Chairman, Bihar School Examination, Board, Patna
5. Secretary, Bihar School Examination, Board, Patna
6. District Education Officer, Nalanda at Biharsharif

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Rewti Kant Raman

For the Respondent/s : Mr. AJAY BIHARI SINHA

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

**ORAL JUDGMENT**

**Date: 21-06-2016**

Pursuant to the earlier direction issued by this Court contained in Annexure-16, the Director, Secondary Education, Government of Bihar has passed an order dated 27.05.2015 which is subject matter of challenge in the present writ application. This order is annexed as Annexure-17 to the writ application. The prayer of the petitioner made before the State authorities for grant of recognition and approval has been rejected for the reasons indicated therein.

2. Counsel for the petitioner submits that the reason for such rejection is erroneous. The matter was very much pending before the State authorities, inspections had been carried out and report had

been submitted. Merely because they drag their feet and certain policy decisions were taken in the meantime, it cannot defeat the claim of the petitioner.

3. The stand of the State is that the decision contained in Annexure-17 is based upon a policy decision taken on 19.05.2009 which has significance. By virtue of this policy decision, the State decided not to take over any institution set up privately keeping in mind that they decided to provide financial aid to institutions so taken over. The policy was challenged and the issued travelled right up till the Hon'ble Apex Court. The Hon'ble Supreme Court considered the issue and had this to observe:

*"Vide Resolution dated May 19, 2009, it was decided by the State Government that no un-aided school "can be started" in a private sector "after 19-05-09". It cannot be said that the said Resolution has a retrospective operation as contended by Mr. Gaurav Agrawal, learned counsel for the petitioner. As a matter of fact, by this Resolution all pending applications as on May 19, 2009 became infructuous."*

4. If the highest Court of the land had declared the law as quoted above then there was no occasion for the Director to pass any order in favour of the petitioner for recognition which would be not only in violation of the order of the Hon'ble Supreme Court but also the policy which was held to be valid by the Apex Court.

5. In view of the above, the reasons for rejection

contained in Annexure-17 are based on valid grounds and it is not required to be interfered with because the petitioner has no right for any kind of recognition or assistance merely because he has been pursuing the matter with the authorities for a long long period. The law as it prevails on the date of the decision has to be applied in such decision making and that is what the Director has done while passing the order contained in Annexure-17.

6. Writ is dismissed.

**(Ajay Kumar Tripathi, J.)**

SanjayKumar/-

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