

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1505 of 2016

IN

Civil Writ Jurisdiction Case No. 1778 of 2016

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The Outgoing Managing Committee (Wrongly Stated by the Writ Petitioner) of Madarsa Islahia Bilaitibari Khagra, Police Station & District - Kishanganj through its Secretary Mofizuddin, son of Late Haji Anis Mohammad, resident of Mohalla - Khagra Bilaitibari, Police Station & District - Kishanganj.

.... Appellant

Versus

1. The State of Bihar.
2. The Special Director, Secondary Education, Government of Bihar, Patna.
3. The Joint Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, District - Kishanganj.
5. The District Programme Officer (Establishment), Kishanganj, District - Kishanganj.
6. The Bihar State Madarsa Education Board, Patna through its Secretary.
7. The Chairman, Bihar State Madarsa Education Board, Patna.
8. The Secretary, Bihar State Madarsa Education Board, Patna.
Sl. Nos. 6 to 8 are 5, Vidyapati Marg, Police Station - Kotwali, District - Patna.
9. Shafique Alam, son of Late Md. Zakira resident of Village - Chapur, Police Station - Chakalia, District - Uttar Dinajpur (West Bengal).
10. The Managing Committee of the Madarsa Islamia Bilaitibari Kharge, Police Station & District - Kishanganj through its Secretary Izhar Ali son of Haji Anis Mohammad resident of Mohalla Bilaitibari, Khagra, Police Station & District - Kishanganj.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Md. Shamimul Hoda, Advocate

For the State : Mr. Jay Prakash Sharma, AC to G.P.XXI

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE DR. RAVI RANJAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE DR. RAVI RANJAN)

Date: 05-10-2016

Heard learned counsel for the appellant and the State.

2. This appeal is directed against the judgment, dated

22.04.2016, passed by a learned Single Judge of this Court, in



C.W.J.C. No.1778 of 2016 dismissing the writ petition. While dismissing the writ petition, the learned Single Judge has directed that the matter be enquired by the District Education Officer, Kishanganj, and the report, if any, forwarded to the Madarsa Board, should be expedited, so that a fresh decision could be taken by the Madarsa Board if the same has not already been done. It has been further recorded, in the judgment under appeal, that the Managing Committee, which is in seisin of the matter, would not take any major decision and create any obligation upon the Madarsa Board in the interregnum till a new Committee is constituted with the approval of the Board. It is the aforesaid part of the impugned judgment, which is being challenged by the appellant, who claims to be respondent No.9 in the connected writ petition.

3. It has been urged, on behalf of the appellant, that since the appellant Committee was duly constituted and it has rightly been held by the Joint Director, and accepted by the learned Single Judge, that the subsequent Committee, which was not approved by the Board; rather, the Committee so approved by the Chairman of the Board, who was not the competent authority to do so and, therefore, the approval granted by the Chairman of the Board to the new Committee has rightly been interfered with. It is contended that this would mean that the previous Committee would stand automatically

revived and, as such, there was no occasion for the Joint Director to record in his order that it would be open for the Madarsa Board to, again, get a report submitted by the District Education Officer, Kishanganj, after necessary enquiry and constitute a new Managing Committee.

4. The learned Single Judge, after accepting the views of the Joint Director, has given a direction for holding fresh enquiry and, thereafter, to decide the validity of the constitution of a new Managing Committee.

5. Question raised by the appellant is that if no fault was found with the appellant-respondent Committee, rather, fault was found with the Committee formed subsequently and which has rightly been held to be illegal by the Joint Director and has been upheld by the learned Single Judge also, that Committee, having been annulled, the earlier Committee, which has been branded as Outgoing Managing Committee by the writ petitioner, automatically stands revived and, thus, there was no occasion for holding a fresh enquiry and recommending constitution of a fresh Managing Committee.

6. However, when confronted with the question that, in case the Managing Committee of the appellant was succeeded by another Committee and that was held to have been illegally constituted, whether the previous Committee would stand revived or

not, it is urged that the order impugned has been passed without issuing notice to the appellant. However, learned counsel has not been able to answer as to why, in such a case, the appellant did not avail the forum of review in place of filing this appeal. The appellant, therefore, now, seeks to withdraw this appeal with a liberty to file a petition for review of the order, dated 22.04.2016, which was impugned in the appeal.

7. This appeal is, accordingly, being disposed of, without going into the merit, with a liberty to the appellant to avail the forum of review, if it so desires.

(I. A. Ansari, CJ)

(Dr. Ravi Ranjan, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
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