

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1576 of 2016

In

Civil Writ Jurisdiction Case No.2691 of 2016

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Kumar Anjan, Son of Shri Janki Prasad Tandan, Resident of Village - Boudhikala, P.O. + P.S. - Rajouli, District - Nawada at present Lecturer in the Department of History, Intermediate Mathurasini College, Rajouli, District - Nawada.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Vikash Bhawan, Patna.
3. The Director, Secondary Education, Education Department, Government of Bihar, Vikash Bhawan, Patna.
4. The Deputy Director, Secondary Education, Government of Bihar, Patna.
5. The Bihar School Examination Board, Higher Secondary through its Secretary, Intermediate Education Building, Budh Marg, Patna.
6. The Chairman, Bihar School Examination Board, Higher Secondary, Intermediate Education Building, Budh Marg, Patna.
7. The Secretary, Bihar School Examination Board, Higher Secondary Intermediate Education Building, Budh Marg, Patna.
8. The Governing Body, Intermediate Mathurasini College, Rajouli, District - Nawada through its Secretary.
9. Akhileshwar Kumar, Son of Shiv Dyali Prasad, Resident of Village - Sukha Marhan P.O. + P.S. - Meskaur, District - Nawada at present Lecturer in the Department of Botany, Intermediate Mathurasini College, Rajouli, District - Nawada.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Bishnu Kant Dubey, Adv.
For B.S.E.B.	:	Mr. Lalit Kishore, Sr. Adv.
		Mr. Satyabir Bharti, Adv.
For the State		Mr. Gyan Prakash Ojha, GA-7
		Dr. Priya Gupta, AC to GA-7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-11-2017



Seeking exception to an order dated 2.5.2016 passed by the learned Writ Court in C.W.J.C. No.2691 of 2016, this appeal has been filed under Clause 10 of the Letters Patent.

Even though the writ petition has been dismissed by on 2.5.2016 by observing "Since there is no demand or failure to perform a public duty, called upon by the petitioners, upon the Director, Secondary Education, Government of Bihar, Patna in furtherance to Annexure-23, dated 14.07.2015, writ application is dismissed", but on going through the facts of the case, we find that with regard to distribution of aid and managing the affairs of the Institute in question, i.e. the Intermediate Mathurasini College, Rajouli, district Nawada, respondent No.8 herein, petitioner approached this Court earlier in C.W.J.C. No.3453 of 2014 and the said writ petition was disposed of on 18.7.2014 directing the Director, Secondary Education, Bihar to take action on the representation of the petitioner, examine the grievances and pass an order pertaining to the grievances in the representation. Accordingly, in pursuance to the direction issued by this Court on 18.7.2014, the Director passed an order (Annexure 23 in the record of the writ petition) on 14.7.2015 and found certain acts of commission and omission and illegality in the functioning of the College in question.



Inter alia contending that despite finding illegality, the Director has not taken any action, the writ petition in question was filed and the Writ Court, as indicated hereinabove, dismissed the writ petition even without notice to the respondents and without considering the grievance of the petitioner in its right perspective.

Having heard learned counsel for the parties, we are of the considered view that once the Director has made certain recommendations and has found certain illegalities in the functioning of the College, it was appropriate for the State Government to take note of the aforesaid aspects of the matter and proceed to take action against the concerned officials or the Institute in accordance with law. This having not been done, interest of justice would be met in case now we direct the Principal Secretary of the Department concerned to proceed to consider the findings recorded by the Director, Annexure 23 dated 14.7.2015, and after hearing all concerned, including the persons against whom action is required to be taken which will include the Managing Committee of the Institute, and pass appropriate orders with regard to the findings recorded by the Director.

On the petitioner filing a copy of this order along with relevant documents, the Principal Secretary after hearing all



concerned and taking note of the defence of the concerned person, shall proceed to take action with regard to irregularities/illegalities in question as pointed out by the Director in his order, Annexure 23 dated 14.7.2015. The entire exercise in this regard should be completed within a period of six months.

Needless to emphasize that we have not expressed any opinion on the merits of the findings recorded by the Director. It is for the concerned Officer of the State Government, i.e. the Principal Secretary, Education Department, to examine the same, consider the defence and explanation of all concerned and thereafter proceed in the matter in accordance with law.

With the aforesaid liberty, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	20.02.2018
Transmission Date	

