

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6937 of 2017

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The Managing Committee of the Madrasa Rizwanul Uloom Paharia, P.S.- Baisi, District Purnea through its Secretary Md. Hasibur Rahman, son of Late Shahabuddin, resident of Village Paharia, P.S.- Baisi, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Special Director, Secondary Education, Department of Education, Govt. of Bihar, Patna.
4. The Joint Director, Secondary Education, Govt. of Bihar, Patna.
5. The District Education Officer, Purnea, District- Purnea.
6. The Bihar State Madrasa Education Board Patna through its Secretary.
7. The Chairman, Bihar State Madrasa Education Board, Patna.
8. The Secretary, Bihar State Madrasa Education Board, Patna.
Nos.6 to 8 are 5- Vidyapati Marg, P.S.- Kotwali, District- Patna.
9. The Managing Committee of Madrasa Rizwanul Uloom, Paharia P.S. Baisi, District Purnea through its Secretary Abdus Salam, son of Late Abdus Saiad, resident of Village Paharia, P.S.- Baisi, District Purnea (as stated in a party position in the memo of appeal).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Nandan Prasad, Adv.
For the Madrasa Board : Mr. Rashid Alam, Adv.
For the Respondent No.9 : Mr. Helal Ahmad, Adv.
Mr. Ashok Choudhary, Adv.
For the State : Mr. Priyadarshi Matri Sharan, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 17-10-2017



Heard Mr. Raj Nandan Prasad, learned counsel for the petitioner, Mr. Rashid Alam, learned counsel appearing on behalf of the Bihar State Madrasa Education Board, Mr. Helal Ahmad, learned counsel representing respondent No. 9 and Mr. Priyadarshi Matri Sharan, learned AC to AAG-15, appearing on behalf of the State of Bihar.

2. The petitioner is aggrieved by an order, dated 03.02.2017, passed in Appeal No. 12 of 2016, by Dr. Vijay Kumar Pandey, Joint Director (Secondary Education) Govt. of Bihar, Patna, whereby, he has quashed an order passed by the Madrasa Board, as contained in memo No. 8202-10, dated 26.12.2016.

3. Learned counsel, appearing on behalf of the petitioner, has drawn my attention to a decision of this Court, dated 21.08.2017, passed in CWJC No. 19290 of 2016 (***Managing Committee of Madrasa Darul Hoda, Sikrona Vs. The State of Bihar & Ors.***), to contend that the said Dr. Vijay Kumar Pandey has been held to be not the competent authority, who could have exercised such powers under Bihar State Madarsa Education Board Act, 1981.

4. In view of the said decision of this Court, dated 21.08.2017, the impugned order is, hereby, set-aside, as beyond jurisdiction.



5. The matter is remanded back to the duly notified competent authority by the State Government, in terms of the provisions under Rule 3 of the Bihar State Madarsa Education Board Control (Appeal) Rules, 1983, for exercising power under Section 28 of the Act. The duly notified appellate authority shall be required to dispose of the appeal within three months from the date of receipt of production of a copy of the order.

6. This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21/10/2017
Transmission Date	N/A

