

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1826 of 2015

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1. Mahanth Dr. Vidyanand Shastri Son of Late Ayodhya Singh and chela of Late Acharya Ramjeevan Sahev R/o Mahadev Math, Ward No-1, Rosra, P.S- Rosra, District - Samastipur, PIN-80810.

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Deputy Secretary, Education Department, Government of Bihar, Patna.
4. Director, Secondary, Education Department, Government of Bihar, Patna.
5. Chairman, Bihar School Examination Board (Senior Secondary), Budh Maarge, Patna - 800001.
6. Secretary, Bihar School Examination Board(Senior Secodary), Budh Marg Patna -800001
7. Satendra kumar Nayak Son of Late Musai Nayak R/o Prabhu thakur Mohalla - Ward no- 09, P.O - Rosera, District - Samastipur, PIN-848210
8. Uday Chandra Mahto, In-Charge Principal, Sant Kabir Ramjivin Musai Nayak Mahila College.
9. District Education Officer, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Rajendra Prasad Singh, Sr. Adv. With Mr. Arjun Pd. Singh
For the Respondent/s	: Mr. Md. Obaidullah, AC to SC-10 Mr. Abhay Shanker Singh Mr. Anil Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 29-06-2017

Heard learned counsel for the parties.

2. The dispute is over constitution of a Governing Body of privately managed Sant Kabir Ramjivan Musai Nayak Mahila College, Rosra, Samastipur. The petitioner claims to have donated substantial land for establishment of the College in question. This is not in dispute that he was functioning as President of the Governing Body of the College, at least on



13.06.2013. He is aggrieved by letter, dated 21.08.2014 issued under the signature of the Secretary, Bihar School Examination Board (Higher Education), whereby constitution of Governing Body comprising of 14 members of the College in question has been notified. The said constitution of the Governing Body has been notified pursuant to Communiqué No. 21 of 2013 dated 30.05.2013 issued in continuance of an earlier Communiqué No. 30 of 2012.

3. It is the case of the petitioner that the said notification has been issued on the basis of forged documents whereas the respondents, namely, the Board and the Respondent No.7 have strongly denied this fact.

4. In view of certain facts, which are admitted I did not go into the question as to whether there was any meeting held for constitution of the Governing Body of the College in pursuance of the Communiqué No. 21 of 2013, dated 30.05.2013. Even if the case of Respondent No.7 is accepted that there was a Governing body constituted in the light of press Communiqué No. 21 of 2013, the said Communiqué apparently lost its force after incorporation of Chapter 5A of Bihar School Examination Board Affiliation (Higher Education), Regulations, 2011. The Regulation prescribes constitution of Governing Body of Higher Secondary (+2) Schools. The note below Regulations 17(A)(i) prescribes the procedure for constitution of the



Governing Body. The said Regulation limits the number of members of the said Governing Body to eight. This is not in dispute that in terms of the said Regulations no Governing Body of the College has been constituted. The constitution of the Governing Body has been notified through letter, dated 21.08.2014, which is under challenge, is evidently not in conformity with the statutory Regulations 17 (A) (i) of 2011 Regulations, framed under Section 17 of the Bihar School Examination Board Act, 1952.

5. Learned counsel appearing on behalf of Respondent No.7 has vehemently argued that since the present application involves seriously disputed question of facts, therefore, this application should not be entertained. He has submitted that since the petitioner has not come with clean hands, this application should be dismissed at the very threshold. He has lastly submitted that the petitioner has statutory alternative remedy under Bihar State School Teachers and Staffs Grievance Redressal Rules, 2015 and for that reason also, this application ought not to be entertained.

6. I do not find any force in such submission made on behalf of Respondent No.7. The said Rules came into being since May, 2015 whereas this application was filed on 28.01.2015. Secondly, there being no dispute about the fact that constitution of the Governing Body as notified under the impugned letter is



not inconformity with the statutory regulations, this application cannot be dismissed on the ground that the petition involves disputed question of facts. The preliminary objection raised on behalf of Respondent No.7 is, untenable.

After having noticed that the said letter dated 21.08.2014, which is under challenge is not inconformity with the Regulations 17A (i) of 2011 Regulations, the Court has no other option but to quash the same.

7. Accordingly, the letter, dated 21.08.2014 issued by the Secretary, Bihar School Examination Board (Higher Education) (Annexure-9) is, hereby, set aside.

8. Let the Governing Body of the School be constituted in accordance with Regulations 17A(i) of 2011 Regulations within two months from today, failing which the concerned Sub-Divisional Officer will be required to discharge the function of the Governing Body of the School.

9. This application is accordingly, allowed.

10. However, there shall be no order as to costs.

ArunKumar/-

(Chakradhari Sharan Singh, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.07.2017
Transmission Date	

