

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7851 of 2016

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1. Managing Committee of Madarsa Mahmoodia at Simaria, P.S. Kajraili, District- Bhagalpur, through its Secretary, Md. Hashim Ali, son of Late Md. Ashraf, Resident of Village- Simariya, P.S.- Kajraili, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Joint Director, Secondary Education, Govt. of Bihar, Patna.
3. The Special Director, Secondary Education, Govt. of Bihar, Patna.
4. The Bihar State Madarsa Education Board, Vidyapati Marg, Patna, through its Secretary.
5. The Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
6. The Secretary, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
7. The District Education Officer, Bhagalpur.
8. The Managing Committee of the Madarsa Mahmoodia Simaria, P.S. Kajraili, District- Bhagalpur, through its Secretary.
9. The Principal of the Madarsa Mahmoodia, Simaria, P.S.- Kajraili, District- Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Md. Anisur Rahman
For the Madarsa Board	:	Mr. Md. Rashid Alam
For Private Respondents	:	Mr. Md. Obaidur Rahman

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date: 08-04-2017

Heard learned Counsel for the parties concerned.

2. The present application has been filed against an order, dated 29.12.2015, passed by the Joint Director, Secondary Education, Government of Bihar, Patna, whereby



he has allowed an appeal filed by respondent no. 8 under Section 28 of the Bihar State Madarsa Education Board Act, 1981.

3. The facts of the case, which are not in dispute, are brief. The Bihar State Madarsa Education Board (hereinafter referred to as 'the Board') came out with an Office Order, dated 28.01.2015, whereby approval of newly constituted Managing Committee of Madarsa Mahmoodia, Simaria (district Bhagalpur) was accorded under the orders of the Chairman of the Board. In the said Office Order, J. B. Master Md. Hashim Ali has been shown as Secretary of the Managing Committee, through whom the present writ application has been filed. Aggrieved by the said Office Order, one J. B. Md. Munif filed an appeal under Section 28 of the Bihar State Madarsa Education Board Act, 1981 before the Joint Director, Secondary Education, Education Department, Government of Bihar, giving rise to Appeal No.14 of 2015. The Joint Director, by the impugned order, dated 23.12.2015, set aside the said Office Order, dated 28.01.2015, on the ground that under the Act, approval of the constitution of the Managing Committee of a Madarsa is to be given by the Board and not by the Chairman. The Joint Director followed, while setting aside the Office Order, dated 28.01.2015, a judgment of his Court, dated 05.11.2015, passed in CWJC No. 379 of



2014 (The Managing Committee Madarsa Qasimul Uloom and Another v. The State of Bihar and Others and another analogous case). After having set aside the said Office Order, dated 28.01.2015, the Appellate Authority allowed the Managing Committee, of which said Md. Munif was the Secretary, to function as full-fledge Managing Committee of the Madarsa.

4. Learned Counsel for the petitioner, while assailing the impugned order, dated 28.01.2015, has very fairly submitted that the decision of the Appellate Authority, to the extent that approval of constitution of the Managing Committee can be granted by the Board and not by the Chairman, is unassailable. He has, however, submitted that by the said order, the Managing Committee of which J. B. Md. Munif is Secretary, has been allowed to function as full-fledged Managing Committee, is illegal because the said Managing Committee was also constituted under the order of the Chairman and not by the Board, as is evident from the Office Order, dated 26.11.2013, which has been brought on record by way of Annexure-1 to the writ application.

5. Learned Counsel appearing on behalf of the respondent no. 8, i.e. the Managing Committee, constituted by Office Order, dated 26.11.2013, has submitted that *post facto* approval of constitution of Managing Committee was



allowed by the Board of the said Managing Committee. He does not dispute the position that the said Office Order, dated 26.11.2013, was also issued under the orders of the Chairman and approval of the constitution of the Managing Committee was granted by the Chairman.

6. I have perused the impugned order and the order, dated 28.01.2015. The decision of the Appellate Authority, to the extent that the Office Order could not have been issued under the orders of the Chairman of the Board and constitution of the Managing Committee could not have been approved by the Chairman of the Board, the same having not been approved by the Board itself, does not suffer from any illegality.

7. From the impugned order passed by the Appellate Authority, I find that the Appellate Authority has left it to the Madarsa Board to proceed for constitution of a new Managing Committee of the said Madarsa and grant approval in accordance with law.

8. Considering the nature of dispute involved in the present writ application, this application is disposed of with a direction to the Bihar State Madarsa Education Board, Patna, to take a final decision on the question of constitution of Managing Committee of the said Madarsa within a period of two months from today.



9. In the mean while, respondent no. 8 will also not function as the Managing Committee of the said Madarsa and the day-to-day affairs of the Madarsa shall be looked after and taken care of by the District Education Officer, Bhagalpur.

10. This application is disposed of with the observations and directions, as above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.04.2017
Transmission Date	N.A.

