

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.995 of 2016
Arising out of
Civil Writ Jurisdiction Case No.16475 of 2012**

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The Secretary, Madarsa, Darul Banat, Bilaspur , Via- Ramgarhwa, East Champaran through Washi Ahmad, son of late SK. Farman, Resident of Village- Bilaspur, P.S. Ramgarhwa, District East Champaran.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. The Special Director Secondary Education, New Secretariat Education Department Bihar, Patna.
3. The Chairman, Bihar State Madarsa Education Board, Patna.
4. The Secretary, Bihar State Madarsa Education Board, Patna.
5. The District Collector, East Champaran at Motihari.
6. The District Superintendent of Education, East Champaran at Motihari.
7. The Block Education Officer Circle, Raxaul Ramgarhwa, East Champaran.
8. Md. Gayashuddin Son of Sk. Ayup Resident of Village - Belaspur P.O. Murla- Via- Ramgarhwa P.S. Ramgarhwa, District East Champaran.
9. Jakaulah, son of late Wazil Haque, Resident of Village- Belaspur, P.O. Murla, P.S. Ramgarhwa, District East Champaran.
10. Abdul Wahid, Son of Sk. Jakir Hussain, Sadar Madris Madarsa, Darul Banat, Resident of Village- Panjiyarwa, P.S. Sugauli, District East Champaran.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Vijay Shankar Shrivastava, Advocate

For the Madrasa Board : Mr. Md. Rashid Alam, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 04-04-2017

Seeking exception to an order dated 05.04.2016, passed by the learned Writ Court; this Appeal has been filed under Clause X of the Letters Patent.

In the matter of dispute between the office bearers of two Madarsas Board when the matter was taken up before the Writ Court on 05.04.2016 it was orally admitted by all concerned that the order



impugned dated 18.10.2011 passed by the Chairman, Madarsa Board was for the limited purpose of accepting examination form and fee for conduct of examination to be held by the Madarsa Board for a particular academic year and nothing more. Taking note of the aforesaid and recording the oral statement made by the parties in the following manner, the writ petition has been dismissed.

“Heard learned counsel for the petitioner, counsel for the private- respondent, counsel for the Madarsa Board and the State.

Both the Madarsa Board and the counsel for the private-respondent in unison clearly states that the order passed by the Chairman, Madarsa Board, dated 18.10.2011 was for a very limited purpose of accepting the form and fee for conduct of examination to be held by the Madarsa Board for the year in question. This was not an effort on the part of the Chairman of the Madarsa Board to give any recognition for one Madarsa or the others. Since two sets of Madarsa with the identical names are fighting over such issue of recognition, the matter actually does not come within the domain of the Madarsa Board or the appeal was maintainable against such a decision before the Special Director, Secondary Education. Annexure-19, therefore, has been rightly rejected. No interference is warranted in the writ application.

Writ application is dismissed, accordingly.

The petitioner, if wants, may move the civil court of competent jurisdiction for appropriate declaration in this regard.”



Learned counsel tried to indicate that it was the dispute between the office bearers of the two Madarsas Board with regard to their right and the learned Writ Court has misconstrued the issue and decided the matter in an illegal manner.

We are unable to accept the aforesaid contention. Once the Chairman of the Madarsa Board through his counsel admitted that the order impugned was for the limited purpose, i.e. for conduct of examination for a particular year and when the disputes with regard to functioning of the Madarsa Board were not adjudicated by the Chairman, we see no reason to interference into the matter when remedy is still available to the petitioner to seek a declaration with regard to his right to carry out the activities of the Madarsa Board by invoking the jurisdiction of the Statutory Authority.

Accordingly, in the facts and circumstances of the case, finding no indulgence to be made, the Appeal is dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

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