

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14960 of 2016

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1. Abdul Raseed Sidique Son of Late Abdul Hamid, Secretary of the Managing Committee of Madarsa Rizwia Ismaliya, Badrululoom, Chauraganj (Goth), District- Madhubani.

2. Mobarak Hussain Quasmi Son of Late Maulvi Razi Ahmad, Head Maulvi of Madarsa Rizwia Ismaliya, Badrululoom, Chanauraganj (Goth), District- Madhubani Both are residents of Village- Chanaura Goth, P.O.- Chanauraganj, P.S.- Jhanjharpur, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Bihar, Patna.

2. The Special Director, Secondary Education, Human Resources Development Department, Bihar, Patna.

3. The District Education Officer, Madhubani.

4. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga.

5. The Bihar State Madarsa Education Board through its Secretary, 5, Vidyapati Marg, Patna

6. The Chairman, Bihar State Madarsa Education Board, 5, Vidyapati Marg, Patna.

7. The Secretary, Bihar State Madarsa Education Board, 5, Vidyapati Marg, Patna.

8. Md. Sidique Son of Md. Israil Both are residents of Village- Chanaura Goth, P.O.- Chanauraganj, P.S.- Jhanjharpur, District- Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Nandan Prasad

For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG-15

For the E.C.U. : Mr. V.N.P. Sinha, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

7 18-08-2017 This writ application has been filed seeking following relief:-

“That this application is being filed for issuance of appropriate writ, order/orders directing the respondents particularly Respondent Nos. 2,5,6 and 7 to make fresh enquiry of Madarsa Rizwia Ismaliya, Badrululoom, Chanauraganj (Goth) within district Madhubani regarding genuineness of



its management and working teachers, which comes under category of 2459 affiliated Madarsa since the report submitted by the Respondent No.4, the Regional Deputy Director of Education, Darbhanga Division, Darbhanga vide letter no. 59 dated 16.03.2016 is collusive, managed and table enquiry in favour of Respondent No.8 without giving any opportunity of petitioners as affiliation letter of Respondent No.8 is forged, fabricated and manufactured and petitioner's affiliation letter granted by Bihar State Madarsa Education Board (hereinafter called Madarsa Board) is actual, genuine affiliation letter of said Madarsa, which will itself appears from the signature of authority granting affiliation letter of different Madarsas at that time."

2. A counter affidavit has been filed on behalf of the Economic Offence Unit, Patna, sworn by its Deputy Superintendent of Police, in compliance of this Court's order, dated 11.05.2017. The said order, dated 11.05.2017 speaks for itself. The Court had noticed that once the Government of Bihar came out with a notification, dated 15.02.2011, making provisions for grant-in-aid for privately managed Madarsa in the State of Bihar, players in the field have become active. The Court also felt that disputes are being raised almost in every Madarsa, recognized or not recognized by the State of Bihar but privately managed, in relation to genuineness of the Committees running the said Madarsas, by approaching this Court under writ jurisdiction.

3. The petitioners of the present writ application



claim to be the Secretary of the Managing Committee of Madarsa Rizwia Ismailiya, Badrululoom, Chanauraganj (Goth), Madhubani. The petitioners allege in paragraph 15 as follows:-

"That it is humbly stated that one Md. Sadique, Respondent No.8 after the aforesaid notification started to play their game with intention to grab the Madarsa in question on the basis of duplicate papers and documents and in this regard they managed one Assistant of Madarsa Board namely Mustafa Kamal, who already sold hundreds of duplicate affiliation letter after taking huge amounts. The said Assistant namely Mustafa Kamal has created so many affiliation letter putting forged signature of the then Secretary of Madarsa Board. The Respondent No.8 also got forged affiliation letter dated 21.03.1987 from the said Assistant of Madarsa Board in which the signature of the then Secretary of Madarsa Board is forged and fabricated. If an FIR is lodged and investigated by the Vigilance be conducted then big scam can be find out that how many duplicate affiliation letters have been created by the staffs of Madarsa Board taking huge amount."

4. The Court by the said order, dated 11.05.2017, had directed the Superintendent of Police, Economic Offence Unit, Patna to cause an enquiry into the affairs of the Madarsa concerned and submit report.



Accordingly a report has been submitted.

5. From the materials on record and the report, which has been submitted, it appears that there are two bodies, both claim to be genuine Managing Committee of the same Madarsa '**Rizwia Ismaliya, Badrululoom, Chanauraganj (Goth), Madhubani**' on the basis of two separate affiliation letters said to have been issued on the same date bearing the same number. The signatory of both the letters have been shown to be the same. Evidently, either of the two letters is forged and result of fraud.

6. From the report submitted by the Economic Offence Unit, it appears that the Bihar State Madarsa Board did not extend due cooperation to the Economic Offence Unit to come to a definite conclusion, in course of irregularity which they were conducting under the orders of this Court.

7. Be that as it may, in my view, a criminal case is required to be registered on the basis of what has emerged from the report submitted by the Economic Offence Unit since the materials on record indicated commission of a cognizable offence. I direct accordingly.

8. Such First Information Report must be registered by the Economic Offence Unit within two weeks from today.



9. The Economic Offence Unit has been directed to register criminal case and investigate into it keeping in mind material, which suggest that persons have indulged in forging or fabricating documents with an intention to misappropriate public money, being released by the State Government by way of grant-in-aid to privately managed Madarsas. If in course of investigation, similar acts of fraud are detected, the Economic Offence Unit will be duty bound to investigate into those cases also in accordance with law, by registering separate criminal cases or otherwise.

10. As regards the relief sought for on behalf of the petitioners, I had already indicated in my earlier order, dated 11.05.2017 itself that there being disputed question of facts, this Court cannot adjudicate upon them in a writ proceeding.

11. This application is disposed of with the observation that the parties shall be at liberty to approach the Civil Court of competent jurisdiction for the relief, which has been sought in the present application.

(Chakradhari Sharan Singh, J)

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