

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1180 of 2016

Arising out of

C.W.J.C. No. 1778 of 2016

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The Managing Committee of the Madrasa Islahia Bilaitibari, Khagra, P.S. & District-Kishanganj through its Secretary Izhar Ali son of Haji anis Mohammad Resident of Mohalla Bilaitibari,Khagra,P.S. & District-Kishanganj

.... Appellant/s

Versus

1. The State of Bihar
2. The Special Director, Secondary Education, Govt.of Bihar, Patna
3. The Joint Director, Secondary Education, Govt. of Bihar, Patna
4. The District Education Officer, District-Kishanganj
5. The District Programme officer (Establishment), Kishanganj, District-Kishanganj
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 Outgoing Managing Committee of the Madrasa Islahia Bilaitibari, Khagra, P.S. & District- Kishanganj through its Secretary Mofizuddin son of Late Haji Anis Mohammad resident of Mohalla- Khagra Bilaitibari, P.S.& District-Kishanganj
10. Shafique Alam, son of Late Md. Zakaria Resident of Village - Chapur, P.S. Chakalia, Disrict-Uttar Dinajpur (West Bengal)

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Nandan Prasad, Advocate
For the Madarsa Board : Mr. Md. Rashid Alam, Advocate
For Private Respondent : Mr. Najmul Hoda, Advocate
For the State : Mr. Uday Prasad, A.C. to G.P. 22

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 21-08-2017

I.A. No. 4810 for substitution stands allowed and disposed of.

Having heard learned counsel for the parties, we find that the order passed by the Chairman of the Madarsa Board was interfered with by the Joint Director and the learned Writ Court only on account of the fact that the Chairman cannot exercise the jurisdiction of a Board and, therefore, his action in passing the impugned orders exercising the powers of a Board is illegal, dismissed the writ petition.

This Court recently on 2nd of August, 2017 while considering and deciding L.P.A. No. 346 of 2016 (The Bihar State Madarsa Education Board and Ors. Vs. The Managing Committee Madarsa Quasimululoom & Ors.) took note of a judgment of this Court in the case of **Abdul Azeem Haidri Vs. The State of Bihar & Ors.- 2001 (3) BLJ 83** and it transpired that by a resolution passed on 29.08.1983, the Government has delegated the power to the Chairman and it has been held in the case of Abdul Azeem Haidri that the Chairman is entitled to exercise the aforesaid power. The question has



also been decided by various other Division Benches in C.W.J.C. No. 4901 of 1997 (Managing Committee of Madarsa Islamia Vs. The State of Bihar & Ors.) based on the judgment rendered in the case of Abdul Azeem Haidri (supra). That being so, now by virtue of the resolution passed by the Government on 29.08.1983, this appeal has to be allowed. The orders passed by the Writ Court on 22.04.2016 in C.W.J.C. No. 1778 of 2016 and the Joint Director on 16.12.2015 quashed and the matter remanded back to be notified and authorize the Appellate Authority to proceed in accordance with law.

With the aforesaid, the Letters Patent Appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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