

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.630 of 2015
In
Civil Writ Jurisdiction Case No. 889 of 2012

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Abdur Rauf son of late Abid Hussain resident of village Malapara, Police Station Abadpur, District Katihar.

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary Secondary Education Department of Education, Bihar, Patna.
3. The D.E.O. , Katihar
4. The Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
5. The Incharge Deputy Secretary, Bihar State Madarsa Education Board Vidyapati Marg, Patna
6. The Managing Committee of Madarsa Islamia Rabbul Bux at Village Abadpur post office & police station Abadpur, District Katihar through its Secretary Zaheeruddin Ahmad
7. Shahjahan Alam son of late Jalaluddin resident of village+ post office Palashi , Police satation Abadpur, District Katihar.
8. The Special Director, Secondary Education Bihar, Patna.

.... Respondent/s

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Appearance:

For the Appellant/s : Mr. Md. Rashid Alam, Advocate
For the Pvt. Respondent/s : Mr. Raj Nandan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

2 19-07-2017 Heard counsel for the appellant and counsel for the respondent no. 6.

Against order dated 14.7.2014 passed in CWJC No. 889



of 2012 two appeals have been filed; one by the petitioner of the writ application who is before us in LPA 630 of 2015 and the other by the Managing Committee of the Madarsa who had appointed the present appellant on the post of an Assistant Teacher beyond the age fixed in terms of the Rules.

The LPA of Managing Committee which is LPA 712 of 2015 which for all practical purposes was to support the present appellant and justify his appointment of the present appellant was negated by the Division Bench and LPA No. 712 of 2015 was dismissed on 16.8.2016.

Since the basic issue was whether the Managing Committee was correct in condoning the age of the present appellant and the present appellant also wants to derive the benefit of such appointment which was held to be bad by the Division Bench. The dismissal of the Managing Committee's L.P.A. is surely a big stumbling block in passing any order upholding the appointment of the present appellant.

Since the appellant is beneficiary of such an illegal decision of the Managing Committee and their effort at justifying their decision has failed in a big way before another Division Bench, the natural corollary is that the appeal of the present



appellant also has to fail because his appointment is *de hors* the Rule which has fixed the upper age at 35 but appellant was 43 years of age on the date of appointment.

The appeal is dismissed.

(Ajay Kumar Tripathi, J)

S.Sb/-

(Rajeev Ranjan Prasad, J)

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