

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.346 of 2016
IN
Civil Writ Jurisdiction Case No. 379 of 2014**

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1. The Bihar State Madarsa Education Board, Patna Through Its Chairman.
 2. The Chairman, Bihar State Madarsa Education Board, Patna.
 3. The Secretary, Bihar State Madarsa Education Board, Patna.
- All 5- Vidyapati Marg, P.S. Kotwali, District- Patna.

.... Respondent Nos 2 to 4-Appellant/s
Versus

1. The Managing Committee Madrasa Quasimululoom At Village- Beldiha, P.O- Silhan, Via- Ekchari, Police Station- Sanokhar (Sanhaula), District- Bhagalpur (Madarsa No. 189) Through Its Secretary Md. Farooque Azam S/o Late Shamsullaha R/o Vill- Beldiha P.O. Silhan via Ekihari P.S. Sanokhar (Sanhaulla) Distt- Bhagalpur.
2. Md. Farooque Azam S/O Late Md. Shamsuzzoha Resident Of Village- Beldiha, P.O- Silhan, Via- Ekchari, Police Station- Sanokhar (Sanhaula), District- Bhagalpur The Secretary, Madarsa Qasimul Uloom, Beldiha.

.... Writ petitioners- Respondents 1st Set.

3. The State Of Bihar through the Secretary, Bihar State Madarsa Education Board, Patna.
4. The District Education Officer, Bhagalpur.

Respondents- Respondents 2nd Set.

5. Md. Manzar Alam S/O Late Md. Usman Resident Of Village- Beldiha, P.O Silhan And P.S- Sanokhar, District- Bhagalpur.
6. Md. Abdur Rassaque S/O Late Md. Ibrahim Resident Of Village- Beldiha, P.O Silhan And P.S- Sanokhar, District- Bhagalpur.
7. Md. Mahfooz S/O Late Abdul Majeed Resident Of Village- Beldiha, P.O Silhan And P.S- Sanokhar, District- Bhagalpur.
8. Md. Aslam S/O Late Muddan Resident Of Village- Beldiha, P.O Silhan And P.S- Sanokhar, District- Bhagalpur.
9. Md. Ekramul Haque S/O Late Md. Usman Resident Of Village- Amdhiya, Post Office- Gajhanda, Police Station- Balbadda, District- Godda.
10. Md. Athar S/O Sk. Shekhawat Resident Of Village- Beldiha, Post Office- Silhan, P.S- Sanokhar, District- Bhagalpur.
11. Anwarul Haque S/O Late Sharafat Hussain Resident Of Village- Beldiha, Post Office- Silhan, P.S- Sanokhar, District- Bhagalpur.
12. Hafiz Md. Allauddin Mansoori S/O Late Md. Fakhruddin Resident Of Village- Beldiha, Post Office- Silhan, P.S- Sanokhar (Sanhaula), District- Bhagalpur.

.... Respondents-Respondents 3rd Set.

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Appearance :

For the Appellant/s : Mr. Md. Rashid Alam, Advocate
For the Respondent No.1 & 2 : Mr. Najmul Hoda, Advocate
For the State : Mr. Rishi Raj Sinha, SC-19
Mr. Birendra Pd. Singh, AC to SC-19

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 02-08-2017

Seeking exception to an order passed by the Writ Court on 05.11.2015 in Civil Writ Jurisdiction Case No. 379 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

In the matter of action taken for approval of a Managing Committee of a Madarsa, the learned Writ Court has held that the decision taken by the Chairman giving recognition to a Managing Committee of the Madarsa is beyond his power, this power can be exercised only by the Board and the Chairman cannot be treated as a Board. Keeping in view the aforesaid, the writ petition in question has been decided and the action taken by the Chairman interfered with.

However, today while hearing the matter, our attention is invited to a resolution of the Board which is available on record delegating certain powers by the Board to the Chairman with reference to certain action to be taken by the Board under Section 7(2) of the Bihar State Madarsa Education Act, 1982 and a judgment rendered by a Bench of this Court in the case of **Abdul Azeem Haidri Versus The State of Bihar & Ors** reported in 2001 (3) BLJ 83, wherein after taking note of this resolution dated 29.08.1983, it is observed that the Chairman can take action in the matter. That apart, another judgment



by another Bench in CWJC No.4901 of 1997 (Managing Committee of Madarsa Islamia Vs. The State of Bihar & Ors.) decided on 13.07.2010, based on the same resolution, has been brought to our notice wherein also placing reliance on the judgment in the case of **Abdul Azeem Haidri** (supra), similar action for approving the constitution of the Managing Committee by the Chairman has been approved.

It is seen that while deciding the said writ petition, all these facts and judgments were not brought to the notice of the learned Writ Court and therefore, it is a fit case where the appeal should be allowed, order passed by the learned writ Court set aside, the writ petition restored to its original file and the matter remanded back to the learned Writ Court for reconsideration afresh in accordance with law.

Accordingly, the Letters Patent Appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.08.2017
Transmission Date	

