

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6952 of 2017

=====

Alhaj Md. Amjad Ali, the Secretary of Madarsa Matlaul Uloom at Simakant Nagar,
Raja Pokhar, P.O.- Kant Nagar, Via Goru Bazar, P.S.- Barari, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Joint Director, Secondary Education Department of Education, Govt. of Bihar, Patna.
3. The District Programme Officer (Establishment), Katihar.
4. The Bihar State Madarsa Education Board, 5-Vidyapati Marg, Patna.
5. The Chairman, Bihar State Madarsa Education Board, 5- Vidyapati Marg, Patna.
6. The Secretary, Bihar State Madarsa Education Board, 5- Vidyapati Marg, Patna.
7. Md. Fazlur Rahman, The Secretary of Old Managing Committee, Madarsa Matlaul Uloom at Simakant Nagar, Raja Pokhar, P.O.- Kant Nagar Via- Goru Bazar, P.S.- Barari, District- Katihar, Madarsa No. 635.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Triloki Nath Maitin, Sr. Adv.
Mr. Md. Ataur Rahman, Adv.

For the State : Mr. Vivek Anand Amritesh, AC to SC-28

For the Respondent No.7: Mr. S.M. Ehtesham, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 12-10-2017

The petitioner is aggrieved by an order, dated
10.04.2017, passed by Mr. Vijay Kumar Pandey, the Joint
Director, Secondary Education, Bihar, Patna, as an appellate



authority, in Appeal No. 32 of 2016, whereby, he has set-aside the approval of New Managing Committee of the Madarsa Matlaul Uloom, extended by the Bihar State Madarsa Education Board, Patna.

2. Learned Senior Counsel, appearing on behalf of the petitioner, has drawn my attention to a judgment and order of this Court, dated 21.08.2017, passed in CWJC No. 19290 of 2016 ***(Managing Committee of Madrasa Darul Hoda Vs. The State of Bihar & Ors.)***, whereby, it has been held that said Mr. Vijay Kumar Pandey could not have exercised the powers of an appellate authority in the absence of statutory notification by the State Government, by publication in official gazette. Exercising similar power of the appellate authority, the impugned order has been passed by Mr. Vijay Kumar Pandey.

3. This is to be noted that in the said judgment and order, dated 21.08.2017, passed in CWJC No. 19290 of 2016, the Court had directed the Principal Secretary, Education Department, Government of Bihar, to notify an appellate authority, under rule 3 of the Bihar State Madarsa Education Board Control (Appeal) Rules, 1983, for exercising power under Section 28 of the Bihar State Madarsa Education Board Act, 1981. It was also directed that once an officer is authorized to discharge the functions of



appellate authority, the appeal of the said case shall be required to be considered afresh.

4. Following the said decision of this Court, dated 21.08.2017, passed in CWJC No. 19290 of 2016, the impugned order, dated 10.04.2017, is, hereby, set-aside. The matter is remanded back to the appellate authority. The duly notified authority will be required to pass an order afresh on the appeal preferred on behalf of respondent No. 7, within a period of three (3) months from today.

5. However, till the appeal is decided on remand by the present order or till completion of a period of three (3) months from today, whichever is earlier, the order, dated 10.04.2017, shall remain operative.

6. This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.10.2017
Transmission Date	N/A

