

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1731 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 11219 of 2014

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The Managing Committee of Madarsa Islamia, Madarsa No. 1043, Rahmanganj, P.O. Tulapatganj, Police Station Jhanjharpur, District Madhubani, through its Secretary Md. Ashfaque Alam Son of Late Jamil Akhtar resident of village - Rahmanganj, P.O. Tulapatganj, Police Station Phulparas, District - Madhubani

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Special Director, Secondary Education, Government of Bihar, Patna
4. The Bihar State Madarsa Education Board, 5 - Vidyapati Marg, Patna, through its Chairman
5. The Chairman, Bihar State Madarsa Education Board, 5, Vidyapati Marg, Patna 800 001
6. The Secretary, Bihar State Madarsa Education Board, 5, Vidyapati Marg, Patna 800 001
7. The District Education officer, Madhubani
8. The Block Education officer, Phulparas, District Madhubani
9. Managing Committee (So called and Self) of Madarsa Islamia Rahmanganj, P.O. Tulapatganj, P.S. Phulparas, District Madhubani through its President Md. Adil
10. Md. Adil Son of Late Md. Fazle resident of village - Rahmanganj, P.O. Tulapatganj, Police Station Phulparas, District - Madhubani
11. Md. Saghir Alam, Son of Late Noor Mohammad, No. 9 President and No. 10 Secretary of (So Called Self) Managing Committee of Madarsa Islamia, Rahmanganj, P.O. Tulapatganj, P.S. Phulparas, District Madhubani

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Manish Kumar No 13, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-08-2017

Seeking exception to an order dated 01.08.2016 passed by the learned Writ Court in C.W.J.C. No. 11219 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

The dispute in question pertains to recognition of Committee managing the affairs of Madarsa No. 1043 situated in the district of Madhubani. The Appellant Committee and the Committee of Respondent No. 9 are claiming to be the duly recognized Committee and challenging the orders passed by the Madarsa Board and the statutory Special Appellate Authority in Appeal No. 37 of 2013 the writ petition in question was filed.

The learned Writ Court found that the concurrent authorities have rejected the claim of the appellant and found the respondent to be the duly recognized and a validly appointed Committee, taking note of the detailed submission that was made, in spite of reservation expressed by the Court the records indicate that



the Madarsa Board was directed to produce the original record relating to the decision taken and after going through the decision the learned Writ Court affirmed the concurrent findings recorded by the statutory authority, namely, the Madarsa Board and the statutory Appellate Authority, namely, the Special Secretary. The learned Writ Court has gone into various details of the matter and did not find any ground to make any indulgence into the matter and dismissed the writ petition.

As the findings recorded by the learned Writ Court are based on concurrent findings recorded by two authorities, we see no reason to make any indulgence into the matter now. That apart, during the course of hearing of this appeal, placing reliance on an order passed on 04.04.2014 by a Single Bench of this Court in C.W.J.C. No. 7030 of 2013 a case was tried to be made out that when the power is to be exercised by the Board the Chairman cannot take a decision in the matter. However, we may take judicial notice of the fact that this order dated 04.04.2014 passed in C.W.J.C. No. 7030 of 2013 has been set aside by us yesterday in L.P.A. No. 346 of 2016 and taking note of two earlier judgments of this Court wherein based on delegation of power made by the Board the Chairman is found to be empowered to take action, we have remanded the matter back to the Writ Court for reconsideration.



That being so, in the light of the judgment in the case of **Abdul Azeem Haidri Vs. The State of Bihar and others-2001(3) BLJ 83** and the order passed on 13.07.2010 in C.W.J.C. No. 4901 of 1997- **Managing Committee of Madarsa Islamia Vs. State of Bihar**, we see no reason to make any indulgence into this aspect of the matter. Accordingly, finding no ground, the Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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