

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.340 of 2016
IN
Civil Writ Jurisdiction Case No. 8762 of 2014**

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1. Bidya Nand Das son of Sri Vishwanath Das resident of village &PO Sanhuali
Via Koshi College P.s Chitragupt Nagar District Khagaria At Present Secretary
of the Managing Committee , Arya Kanya Uchch Vidyalaya Khagaria.

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Secondary
Education,
2. The District Magistrate Cum Collector, Khagaria
3. The Additional District Magistrate, Khagaria
4. The District Education Officer, Khagaria
5. The In-charge, Head Master, Arya Kanya Uccha Vidyalaya, Khagaria

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Jha, Advocate

For the Respondent/s : Mr. Sushil Kr. Singh, AC to AAG-10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2017

On hearing learned counsel for the parties, we find
that with regard to a minority education institute, the learned Writ
Court has directed the District Magistrate of a particular district to
get the election to the managing Committee conducted and take
action in the matter.

Learned counsel for the appellant refers to the
statutory rules and points out that District Magistrate is not
authorized to take action with regard to a minority institute. As per
the Statute, the power to take action is vested in the District



Education Officer or the Department of Education and as the direction issued by the learned Writ Court is contrary to the mandate of the Statute, the same is unsustainable.

In view of the submission aforesaid and finding them to be correct, we allow this appeal, quash the order impugned order dated 24.11.2015 and remand the matter back to the learned Writ Court for fresh consideration.

During the course of hearing, we have been informed that certain elections in pursuance to the impugned order passed in the writ petition have been held. As we are quashing the aforesaid order and we are informed that the subsequent election is also under challenge, the matter can be re-considered by the learned Writ Court in the light of this order and the parties can raise all objections in the matter in accordance with law.

With the aforesaid, this appeal is disposed off.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

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