IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1366 of 2017

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1. Ucchatar Madhyamik School, (+2), Kabar, Anti Gaya through its Secretary Ramesh Kumar, S/o Ramchandra Yadav, R/o Anti, P.O.- Kabar, P.S.- Anti, Distt.- Gaya.

.... Petitioner

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 District Magistrate, Gaya.
4. The Additional Collector, Gaya.
5. The District Education Officer, Gaya.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 1024 of 2017

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1. S.M.P. Uchach Madhyamik School, Fatehpur, Gaya through its Secretary Rakesh Kumar, S/o Mahadeo Prasad, R/o vill. Khree, P.O. Jethion, P.S. Atari, District - Gaya

.... Petitioner

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 District Magistrate, Gaya
4. The Additional Collector, Gaya
5. The District Education Officer, Gaya
6. The Bihar School Examination Board, Patna through its Chairman, Patna
7. The Chairman, Bihar School Examination Board, Patna
8. The Secretary, Bihar School Examination Board, Patna

.... Respondents

with

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Civil Writ Jurisdiction Case No. 1364 of 2017

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1. Mahamaya Prajapati Gautami Mahila U. M. Vidyalaya, Bodh Gaya through its Principal cum Secretary, Dr. Markandey Pandey, S/o Late Ramchandra Pandey, R/O Moh Ambedkar Nagar, Behind Bhojpur Transformer Factory, Police Line Road P.O. & P.S.- Rampur, District- Gaya.

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.... Petitioner

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 District Magistrate, Gaya.
4. The Additional Collector, Gaya.
5. The District Education Officer, Gaya.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

.... Respondents

with

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Civil Writ Jurisdiction Case No. 1948 of 2017

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1. Trimurti Inter College, Ismailpur, Nisarpura, Via - Punpun, Patna, through its Secretary Surendra Singh, son of Ram Sevak Singh, resident of F/139, P.C. Colony Kankarbag, P.S.- Kankarbag, District- Patna.
2. Surendra Singh, son of Ram Sevak Singh, resident of F/139, P.C. Colony Kankarbagh, P.S.- Kankarbag, District- Patna.

.... Petitioners

Versus

1. The Bihar School Examination Board, Sinha Library Road, Patna through its Secretary.
2. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna.
3. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3270 of 2017

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1. Nandlal Singh Uchhatar Madhyamik Vidhyalaya Shikraul Lakh, Dafa Dehri, Buxar through its President Dharmendra Kumar Singh, Son of Late Nandlal Singh, Resident of Village Dafa Dehri, P.O.- Shikraul, Lakh, District- Buxar (Bihar).

.... Petitioner/s

Versus

2. The State of Bihar.
3. The Principal Secretary, Education Department, Government of Bihar, Patna.
4. The Director, Secondary Education, Government of Bihar, Patna.
5. The District Education Officer, Buxar.
6. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
7. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha

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Marg, Patna.

8. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2474 of 2017

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1. B. D. +2 Uchhatar Madhyamik Vidhyalaya Kukudha Road, Bijhoura, Buxar through its Principal Devendra Kumar Singh, Son of Shri Harihar Singh, Resident of Village + P.O.- Pandetpatti, P.S.- Muffasil, District- Buxar (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Buxar.
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3244 of 2017

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1. Amarnath Mishra Uchhatar Madhamik Vidyalaya, Dayalpur, Dhansoi, Buxar through its Principal Seema Kumari @ Seema Devi Wife of Amarnath Mishra, Resident of Village- Dayalpur, P.O.- Gogaura, P.S.- Dhansoi, District- Buxar (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Buxar.
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

WEB COPY

with

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Civil Writ Jurisdiction Case No. 3195 of 2017

==========

1. Sunil Singh Yadav Uchh Madhyamik Vidhyalaya, Indrhiyan, Sasaram, Rohtas through its Principal -Cum-Secretary,Sunil Kumar Singh Son of Bhaiya Ram Singh Resident of Village- Indrhiyan, P.O.- Karup, Indrhiyan,P.S. Sasaram Moffasil, District- Rohtas(Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Rohtas.
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5043 of 2017

==========

1. Harinandan Chandrabanshi Uchh Madhyamik Vidhyalaya, Bikramganj, Rohtas through its President Lakshman Prasad Son of Harinandan Chandrabanshi, Resident of Mohalla- Askamani Nagar, P.O.+ P.S.- Bikramganj, District- Rohtas (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Rohtas.
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3977 of 2017

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WEB COPY

1. B. N. Bhagat +2 Uchhatar Madhyamik Vidhyalaya, Itarhi, Buxar through its President Om Prakash Bhagat Son of Vishwanath Bhagat, Resident of Village- Sarasti, P.O.-Itarhi, District-Buxar (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna,
4. The District Education Officer, Buxar,
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary,
6. The Chairman, Bihar School Examination Board, (Senior Secondary), Buddha Marg, Patna
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 789 of 2017

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1. Santosh Uchh Madhyamik (+2) School, Guraru, District- Gaya through its Principal Santosh Kumar S/o Indradeo Yadav Village & P.O.-Digghi, P.S.- Konch, District-gaya

.... Petitioner/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 District Magistrate, Gaya
4. The Additional Collector, Gaya
5. The District Education Officer, Gaya
6. The Bihar School Examination Board, Patna through its Chairman, Patna
7. The Chairman, Bihar School Examination Board Patna
8. The Secretary, Bihar School Examination Board, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4744 of 2017

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1. Kanya Uchhatar Madhyamik Vidhyalaya, Naya Bazar, Buxar through its Principal Janardan Singh Son of Late Nanak Singh, Resident of Village- Thora, P.O.- Cental Jail Buxar, P.S.- Buxar Muffasil, District- Buxar (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar

WEB COPY

2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Buxar.
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16941 of 2016

==========

1. Ram Nath Rear Trust, Lakhisarai, At- Lakhisarai, P.S.- Lakhisarai, District- Lakhisarai through its President Ram Balak Prasad Singh

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar School Examination Board (Higher Secondary), Patna through its Chairman, Patna.
4. The Chairman, Bihar School Examination Board, Patna.
5. The Secretary, Bihar School Examination Board, Patna.
6. The District Magistrate, Lakhisarai.
7. The Superintendent of Police, Lakhisarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 17206 of 2016

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1. Ram Nath Rear Trust, Lakhisarai, At- Lakhisarai, P.S.- Lakhisarai, District- Lakhisarai through its President Ram Balak Prasad Singh

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Bihar School Examination Board (Higher Secondary), Patna through its Chairman, Patna.
4. The Chairman, Bihar School Examination Board, Patna.
5. The Secretary, Bihar School Examination Board, Patna.
6. The District Magistrate, Lakhisarai.
7. The Superintendent of Police, Lakhisarai.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 20312 of 2016

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1. Subhash Senior Secondary School Moratalab, Sohsarai, Biharsharif, District - Nalanda through Suraj Bhatt, Principal-cum-Secretary.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. Director, Secondary Education, Government of Bihar, Patna.
4. District Education Officer, Nalanda.
5. Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 390 of 2017

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1. Janardan Uchchtar Madhyamik (+2) Vidyalaya, Narkariyagan, District-West Champaran represented through its Secretary, Pramod Kumar Choubey, S/o-Late Janak Choubey, Resident of Village-Banu Chhapar, Deo Nagar, P.O. + P.S.-Bettiah, District-West Champaran, Permanent resident of Village-Sathi (Semari), P.O. + P.S.-Sathi, District-West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department, of Education, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board, Patna
5. The Secretary, the Bihar School Examination Board, Patna
6. The Chairman, Bihar School Examination Board, Patna.
7. The Affiliation Committee of Bihar School Examination Board, Patna, Constituted Under Rule 3 of the Bihar School Examination Board (Sr. Sec.) Affiliation Bylaws, 2013
8. The District Magistrate, West Champaran,
9. The District Education Officer, West Champaran, Bettiah

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 127 of 2017

==========

1. Makhdum Bakhash Memorial Uchchtar Madhyamik Vidyalaya, Uttarvahini, Chanpatiya, District - West Champaran represented through its Secretary,

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Sheikh Najarul Haque, S/o Late Makhum Baksh, resident of village - Uttarvahini, P.O. Pokhariya Rai, P.S. Chanpatiya, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board, Patna
5. The Secretary, the Bihar School Examination Board, Patna
6. The Chairman, the Bihar School Examination Board, Patna
7. The Affiliation Committee of Bihar School Examination Board, Patna, Constituted under Rule 3 of the Bihar School Examination Board (Sr. Sec.) Affiliation Bylaws, 2013
8. The District Magistrate, West Champaran
9. The District Education Officer, West Champaran, Bettiah

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 418 of 2017

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1. Asha Sinha Memorial Uchcha Madhyamik Vidyalaya, Dariyapur Barua, Sonepur, District - Saran represented through its Principal, Manjay Lal, S/o Shri Lakshman Singh, resident of village - Kochas, P.O. + P.S. Kochas, District - Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board, Patna
5. The Secretary, the Bihar School Examination Board, Patna
6. The Chairman, the Bihar School Examination Board, Patna
7. The Affiliation Committee of Bihar School Examination Board, Patna, Constituted under Rule 3 of the Bihar School Examination Board (Sr. Sec.) Affiliation Bylaws, 2013
8. The District Magistrate, Saran at Chapra
9. The District Education officer, Saran at Chapra

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 166 of 2017

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WEB COPY

1. Polhawan Singh Ramjyoti Devi Brijnandan Singh Sharda Devi Uchchtar Madhyamik Vidyalaya, Nayaka Barka Baiju Tola, Rivilganj, District- Saran at Chapra represented through its Principal, Santosh Kumar Singh, S/o Shri Brijnandan Singh, resident of Village- Godna More, Gautam Asthan, P.O. + P.S.- Rivilganj, District- Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna.
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board, Patna.
5. The Secretary, the Bihar School Examination Board, Patna.
6. The Chairman, the Bihar School Examination Board, Patna.
7. The Affiliation Committee of Bihar School Examination Board, Patna, constituted under Rule 3 of the Bihar School Examination Board (Sr. Sec.) Affiliation Bylaws, 2010.
8. The District Magistrate, Saran at Chapra.
9. The District Education Officer, Saran at Chapra.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 399 of 2017

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1. Mahendra Prasad Memorial U. M. V., Dariyapur, Cherki through its Secretary Jugal Kishor Son of Mahendra Prasad Resident of Dariyapur, Cherki, P.S. Sherghat, District- Gaya.

.... Petitioner/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 District Magistrate, Gaya.
4. The Additional Collectariate, Gaya.
5. The District Education Officer, Gaya.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 594 of 2017

==========

1. Sanjay Singh Yadav Uachh Mahavidhyalya (+2) School ,Rafiganj, Aurangabad through its President Sanjay Singh Yadav S/o Shri Sheoratan Singh

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P.S. Rafiganj, Aurangabad.

.... Petitioner/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 District Magistrate, Gaya.
4. The Additional Collector, Gaya.
5. The District Education Officer, Gaya.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Bihar, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5685 of 2017

==========

1. Bindeshwar Prasad Memorial Senior Secondary School, Maranchi, Paraiyya, Gaya through its teacher Akash Dayal Son of Sunil Kumar, Village-Maranchi, P.s.-Paraiyya, District Gaya

.... Petitioner/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 District Magistrate, Gaya
4. The Additional Collector, Gaya
5. The District Education, Officer, Gaya
6. The Bihar School Examination Board, Patna through its Chairman. Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5658 of 2017

==========

1. Shri Ram Lakhan Singh Yadav Uchh Vidhyalaya, Nardiganj, Pandupa, Nardiganj (Nawada) through its Principal Ram Chandra Prasad, son of Mahaveer Mahto, Parma, P.S. Parman District- Nawada.

.... Petitioner/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 District Magistrate, Nawada.

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4. The Additional Collector, Nawada.
5. The District Education Officer, Nawada.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 5072 of 2017

==========

1. Mahatma Gandhi Inter Mahavidhyalaya, Jehanabad through its Principal Arbind Kumar Dwivedi, S/o Dinesh Chandra Dwivedi, R/o Village- Amair, P.S. Paras Bigha, District- Jehanabad.

.... Petitioner/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 District Magistrate, Gaya.
4. The Additional Collector, Gaya.
5. The District Education Officer, Gaya.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 467 of 2017

==========

1. Ideal Public Senior Secondary School, Manpur, District - Gaya through its Secretary Ajay Kumar, Son of Mohan Prasad, Resident of Village Mastalipur, P.O. Bara Gandhar, P.S.- Muffasil, District- Gaya.

.... Petitioner/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 District Magistrate, Gaya.
4. The Additional Collector, Gaya.
5. The District Education Officer, Gaya.
6. The Bihar School Examination Board, Patna through its Chairman, Patna.
7. The Chairman, Bihar School Examination Board, Patna.
8. The Secretary, Bihar School Examination Board, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4 of 2017

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1. Haroon Memorial Senior Secondary (Uchchtar) School, Sansaraiya, Nautan, District - West Champaran represented through its Secretary, Roohul Amin Khan S/o - Late Md. Haroon Khan resident of village + P.O. - Sansaraiya, P.S. - Muffasil Bettiah, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna.
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board, Patna.
5. The Secretary, the Bihar School Examination Board, Patna.
6. The Chairman, the Bihar School Examination Board, Patna.
7. The Affiliation Committee of Bihar School Examination Board, Patna, constituted under Rule 3 of the Bihar School Examination Board (Sr. Sec.), Affiliation Bylaws, 2013.
8. The District Magistrate, West Champaran.
9. The District Education Officer, West Champaran, Bettiah.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 104 of 2017

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1. Indu Devi Memorial Senior Secondary School, Maldahiya, Narkatiyaganj, District - West Champaran represented through its Principal, Mritunjay Kumar S/o - Shri Arbind Kumar Verma resident of village - Maldahiya, P.O. - Narkatiyaganj, P.S. - Sikarpur, District - West Champaran, Secretary of Indu Dev Memorial Senior Secondary School, Maldahiya, Narkatiyaganj, District - West Champaran.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna.
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board, Patna.
5. The Secretary, the Bihar School Examination Board, Patna.
6. The Chairman, the Bihar School Examination Board, Patna.
7. The Affiliation Committee of Bihar School Examination Board, Patna, constituted under Rule 3 of the Bihar School Examination Board (Sr. Sec.), Affiliation Bylaws, 2013.
8. The District Magistrate, West Champaran.

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9. The District Education Officer, West Champaran, Bettiah.

.... Respondent/s

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Appearance :
(In CWJC No.1366 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Smt. Shilpa Singh- GA12
(In CWJC No.1024 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Smt.Shilpa Singh-GA12
(In CWJC No.1364 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Mr. Madhaw Pd. Yadav- GP23
(In CWJC No.1948 of 2017)
For the Petitioner/s : Mr. Ajey Kumar
For the Respondent/s : Mr. Gyan Shankar
(In CWJC No.3270 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Smt. Shilpa Singh-GA12
(In CWJC No.2474 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr. Ashutosh Ranjan Pandey -AAG 15
(In CWJC No.3244 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Smt. Binita Singh- SC28
(In CWJC No.3195 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr. Madanjit Singh- GP20
(In CWJC No.5043 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG15
(In CWJC No.3977 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr. A.R. Pandey- AAG15
(In CWJC No.789 of 2017)
For the Petitioner/s : Ms. Shama sinha
For the Respondent/s : Mr. Kameshwar Kumar- GP17
(In CWJC No.4744 of 2017)
For the Petitioner/s : Mr. Sunil Kumar Singh
For the Respondent/s : Mr. Madanjeet Singh -GP20
(In CWJC No.16941 of 2016)
For the Petitioner/s : Mr. Rajeev Kumar Singh
For the Respondent/s : Smt.Shilpa Singh-GA12
(In CWJC No.17206 of 2016)
For the Petitioner/s : Mr. Rajeev Kumar Singh
For the Respondent/s : Mr. Ashutosh Ranjan Pandey- AAG15
(In CWJC No.20312 of 2016)
For the Petitioner/s : Mr. Raj Kishor Prasad
For the Respondent/s : Mr. Jitendra Kumar Roy No. 1, SC13
(In CWJC No.390 of 2017)

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For the Petitioner/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Mr. Madhaw Pd. Yadav- GP23
(In CWJC No.127 of 2017)
For the Petitioner/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Mr. Jitendra Kumar Roy No. 1 SC13
(In CWJC No.418 of 2017)
For the Petitioner/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Mr. Ashutosh Ranjan Pandey-AAG15
(In CWJC No.166 of 2017)
For the Petitioner/s : Mr. Rajeev Ranjan
For the Respondent/s : Mr. Subhash Chandra Mishra- SC16
(In CWJC No.399 of 2017)
For the Petitioner/s : Ms. Shama sinha
For the Respondent/s : Smt.Shilpa Singh-GA12
(In CWJC No.594 of 2017)
For the Petitioner/s : Ms. Shama sinha
For the Respondent/s : Mr. Madhaw Prasad Yadav-GP23
(In CWJC No.5685 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Mr. Madanjeet Singh- GP20
(In CWJC No.5658 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Mr. Kameshwar Kumar -GP17
(In CWJC No.5072 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Mr. Jitendra kr. Roy No. 1- SC13
(In CWJC No.467 of 2017)
For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Mr. Kameshwar Kumar-GP17
(In CWJC No.4 of 2017)
For the Petitioner/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Mr. Subhash Chandra Mishra- Sc16
(In CWJC No.104 of 2017)
For the Petitioner/s : Mr. Shri Prakash Srivastava
For the Respondent/s : Mr. Kameshwar Kumar-GP17
For the Board : Mr. Lalit Kishore, Senior Advocate
(**in all cases)** Mr. Satyabir Bharti

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
C.A.V.

Date: 24-08-2017

Since this batch of writ applications, filed under

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Article 226 of the Constitution of India, involve common legal issues for judicial determination and grounds of attack against the impugned action of the Bihar School Examination Board (hereinafter referred to as the Board) are almost identical, the matters have been heard together with the consent of the parties and are being disposed of by present common judgment and order.

2. Certain Schools, privately managed, were granted affiliation by the Board for preparing the students for Secondary (Class 10) and Senior Secondary Schools (Class 12) Certificate Examination of the Board. The Schools, which impart education for preparing students up to Class 10, are known as "Secondary Schools" and those imparting education up to Class 12 are known as "Senior Secondary Schools", within the meaning of Bihar School Examination Board (Senior Secondary) Affiliations Regulations, 2013 (hereinafter referred to as the Regulations).

3. These applications have been filed either by such Senior Secondary/Secondary Schools or the Trusts managing the said Schools. They are aggrieved by respective orders passed by the Board in purported exercise of the power of withdrawal of affiliation under Regulation 15 of the Regulations, whereby their affiliations have been withdrawn/ cancelled.

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4. Heard Mr. Abhay Kumar Singh, learned Senior Counsel for the petitioners ably assisted by Mr. Shri Prakash Srivastava. Ms. Shama Sinha has appeared in many of the cases representing the petitioner and has advanced her submissions. Learned Counsel for Petitioners, in other cases, have extended their valuable assistance. State Counsel representing the State of Bihar have also been heard. Mr. Lalit Kishore, learned Senior Counsel, has appeared on behalf of the Board assisted by Mr. Satyabir Bharti, Mr. Gyan Shankar and Mrs Vinita Singh. I might have missed to mention the names of other learned counsel who extended their valuable assistance at the hearing; I acknowledge the quality of assistance extended by all of them.

5. A preliminary objection over maintainability of the writ applications on the ground of availability of alternative remedy of appeal before the State Government has been taken on behalf of the Board with reference to sub-Section (4) of Section 10B of the Bihar School Examination Board Act, 1952 (hereinafter referred to as the 'Act'), which in Court's view is wholly misplaced and not at all tenable. Since, I will be dealing with Sections 10B and 10C of the Act to address one of the core issues involved in the present batch of cases, the said provisions are being reproduced herein below:-

"**10B. Committee of Affiliation.-** (1) A Committee of

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Affiliation shall be constituted by the Board for granting and withdrawing affiliation of Secondary and Senior Secondary Schools established by non-governmental organizations.

(2) The Committee of Affiliation shall consist of the following:

(i) Chairman of the Board;

(ii) A person to be nominated by the Board.

(3) The Chairman of the Board shall function as the Chairman of the Committee, and the Secretary of the Board shall function as Secretary of the Affiliation Committee.

(4) Any person dissatisfied with decision of the committee constituted under Section 10B may prefer an appeal within 30 (thirty) days of the communication of the decision before Principal Secretary, Human Resource Development Department, Government of Bihar, who shall be the appellate Authority and his decision shall be final.

(Emphasis mine)

10C. Power to Grant and Withdraw Affiliation.- The Board shall have power to grant and withdraw affiliation of Secondary and Senior Secondary Schools established or to be established by the non-governmental organizations on the basis of recommendation of Committee of

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Affiliation, constituted under Section 10B above and it shall have power to make regulations in this regard with the approval of the State Government:

Provided that the Institutions imparting education of Intermediate (+2) standard deemed to have been recognized under Section 39 of the Institutions established and recognized or granted permission for establishment under Section 41 of the Bihar Intermediate Educational Council Act, 1992, shall be deemed to have been affiliated with Board for the senior secondary examination:

Provided further that all such Institutions of Intermediate (+2) Education shall reorganize and rename themselves as senior secondary schools with facilities and teachers for imparting education at secondary stage and senior secondary stage as prescribed by the Regulations to be made by the Board in this regard, and within the time-frame indicated in it:

Provided also that before withdrawing affiliation the Board shall give to the school or the institutions concerned a reasonable opportunity of being heard, and the students admitted into such schools or institutions shall be allowed to complete their academic sessions and appear at the next

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examination conducted by the Board."

6. I have taken note of the fact that the words "Principal Secretary, Human Resource Development Department, Government of Bihar", in sub-section (4) of Section 10B of the Act have been substituted by the words "State Government" by Section 8 of the Bihar School Examination Board (Amendment) Act, 2011 (Bihar Act 6, 2011).

7. On bare reading of sub-Section (4) of Section 10B of the Act, it is clear that the said appeal lies against decision of the Committee of Affiliation, whereas in the present case, action of the Board is being assailed on the grounds, *inter alia,* that the matter was never placed before the statutory Committee of Affiliation and, therefore, there is no decision of the Committee, appealable under sub-Section (4) of Section 10B of the Act. There is no gainsaying that the matters relating to cancellation/withdrawal of affiliation, which are under challenge in the present batch of cases, were never placed before the Committee of Affiliation, constituted under Section 10B of the Act. The preliminary objection so taken, thus, stands overruled.

8. It appears that the action of the Board is aftermath of detection merit scam in the State of Bihar. It is the stand of the Board in the present proceedings that after the merit scam

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surfaced, the Board received large number of complaints against various institutions engaged in the business of facilitating students to clear 10^{th}/12^{th} examinations though illegitimate, backdoor method. In some of the cases the Board received complaints that such Colleges/Schools did not exist and they were found to be running on papers only. The Board also received complaints that so many institutions were, without carrying any teaching activity, getting students admitted in their Schools and helping them smoothly pass the examinations, with the use of unfair means and malpractices so much so that they were passing with better division and marks compared to well established schools and colleges, where regular teaching was being imparted.

9. From the reading of the counter affidavits filed on behalf of the Board, it can be easily seen that the present administration of the Board has accused its earlier dispensation which is said to have granted affiliations in favour of 212 Schools/Colleges where there were absolutely no infrastructure or other facilities nor sufficient number of teachers. It is the further stand in the counter affidavits that the present Chairman of the Board took the matter seriously and under his guidance scrutiny started whereafter the Board arrived at a conclusion that the then Chairman and the officials of the Board had made compromises in the matter of grant of

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affiliations. As a corrective measure, the Board decided to enquire into the availability of infrastructure and other teaching facilities in newly affiliated schools/colleges so that proper decision in the matter could be taken. Accordingly, in furtherance of the said decision, the Board prepared a district-wise list of newly affiliated colleges/schools conducting teaching up to Class 12 and requested the respective District Magistrates of the District, vide letter No. 5684, dated 2nd July, 2016, to take steps for on the spot inspection and physical verification of infrastructure and other facilities of such colleges/schools by a Committee comprising:- (i) Officer not below the rank of Additional District Magistrate nominated by the District Magistrate. (ii) A member nominated by Superintendent of Police of the concerned District not below the rank of Inspector of Police.(iii) District Education Officer of the concerned District or his nominee. (iv) One member nominated by the Board and (v) An Officer as member Secretary nominated by the District Magistrate.

10. The Committee was asked to make on the spot inspection and physical verification of newly affiliated Colleges/Schools of the district concerned on the touchstone of minimum requirement for grant of affiliations. There were 18 issues which were required to be looked into by the Inspecting Team, which were directly connected with the infrastructural

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facilities and essential conditions for grant of affiliations, according to the Board. The Inspecting Team so constituted, submitted its reports with respect to the respective schools/colleges recording shortcomings in the infrastructural facilities, put in place by the respective institutions. The said inspection reports of the Committee were made available to the respective schools/colleges with show cause notices directing them to submit their explanations within 15 days. It is the plea of the Board, in the counter affidavits that the said team was constituted by the Board. It is also the case of the Board that the show cause replies submitted in response to show cause notice were considered by the Board objectively and, thereafter, the Board passed final speaking orders, cancelling the affiliation in courses of study, granted to the respective institutions.

11. In view of the specific stand taken on behalf of the Board that the decision to constitute Inspecting Teams was taken by the Board and; based on enquiry reports so submitted and show cause replies so filed, decisions to cancel the affiliations were taken by the Board, which was being disputed on behalf of the petitioners, I had directed for production of original records in relation to the cancellation of affiliations of the respective schools/colleges of the petitioners, which have been produced and have been perused by me.

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12. In course of hearing of these cases, Mr. Lalit Kishore, learned Senior Counsel, representing the Board, has submitted that it is true that in some of the cases, the matter was not placed before the Board, i.e., Chairman and other Members of the Board, after receipt of the show cause replies from the respective schools/colleges before cancellation of such affiliations. It has, however, been submitted that at least in 12 cases, the matter was placed before the Board in its meeting held on 22.10.2016.

13. I have perused some of the original records produced by the Board to ascertain the correctness or otherwise of the stand taken on behalf of the Board that the matters were placed before the Board for consideration. In particular, I have perused original files produced by the Board pertaining to schools which are petitioners in CWJC No. 20312 of 2016 and CWJC No. 5072 of 2017. What has been commonly found in original records of both these cases is that based on enquiry reports of five-member Committee constituted as aforesaid, the Vigilance Officer of the Board put up the file before the Chief Vigilance Officer of the Board proposing to seek show cause replies from the respective schools/colleges. The files were, thereafter, placed before the Chairman of the Board with the noting *"Yatha Prastwait"* (as proposed). The Chairman endorsed the view of the Chief

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Vigilance Officer and accordingly show cause notices were issued to the schools, seeking their explanations against the proposal to cancel their affiliations of the courses. The show cause replies were received in the Board, which were, again, dealt with by the Vigilance Officer. He, in his noting, dated 15.10.2016, in CWJC No. 20312 of 2016 (Subhash Senior Secondary School Moratalab), recommended for cancellation of affiliation. The Chief Vigilance Officer approved the proposal, which finally came to be endorsed by the Chairman of the Board. The letters, cancelling the affiliations, were issued, before the meeting of the Board is said to have been held to consider cancellation of affiliations of these schools/colleges.

14. It cannot be, thus, the plea of the Board that the decisions to cancel affiliations of these schools/colleges were taken by the Board since there is nothing on record to show that before the decision was taken, the matter was placed before the Board.

15. Absence of any noting in the file that the matter was subsequently placed before the Board casts a serious doubt on the stand taken on behalf of the Board that these matters were ever placed before the Board.

16. I have discussed these facts in the very beginning to address the arguments advanced on behalf of the

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petitioners and the Board on the question of legality of the action in issuance of the impugned letters, cancelling affiliations granted to the concerned schools/colleges.

17. I have no hesitation in recording a definite finding at this stage that even in respect of 12 cases as noted above, the decision to cancel affiliations of the schools/colleges were not taken by the Board. The action started at the behest of the Chairman of the Board and ended with his decision to cancel affiliations. There is no dispute about rest of the schools/ colleges affiliations of which have been cancelled by different orders and are there before this Court in the present batch of cases, that the decisions to cancel the affiliations have been taken by the Chairman and not by the Board. Regulation 15 of the Regulations confers upon the Board, power and jurisdiction to withdraw affiliations of the schools/colleges or disaffiliate it in certain circumstances as enumerated in the said Regulations. The Board in the said Regulations has been defined as Bihar School Examination Board. The constitution of 'Bihar School Examination Board' is under Section 4 of the Act, which reads thus:-

> "4. Constitution of the Board-(1) The Board shall consist of-
>
> (a) the Chairman;
>
> (b) the Director of Public Instruction, Bihar *Ex-officio*;
>
> (c) one representative from each

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of the Universities in Bihar established by law, to be nominated by the State Government;

(d) one Principal of a Training college to be nominated by the State Government."

18. It is evident, thus, that the statutory power of cancellation of affiliation can be exercised by the Board constituted under Section 4(a) of the Act only. The Chairman is part of the Board and he could not have individually exercised the power vested in the Board.

19. There is another ground which has been taken on behalf of all the petitioners, while assailing the impugned decisions of cancellation of affiliation. It is the plea on behalf of the petitioners that, at no point of time, the matters in relation to cancellation of affiliation of the concerned schools/colleges, were placed before the Committee of Affiliation *(hereinafter referred to as the 'Committee')*, which, according to the petitioners, is mandatory. The purpose of the Committee, as has been prescribed under Regulation 14 (5) of the Regulations, is 'for granting and withdrawing affiliation of Secondary and Senior Secondary School'. Regulation 14 of the Regulations lays down the procedure for submission of applications for affiliation and follow-up action. On close reading of Regulation 14 of the Regulations, it can be easily

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noticed that on receipt of the applications, the Board is required to examine the documents on various conditions of requirements and in case the Board observes that the school fulfills the essential conditions, the Board is supposed to appoint an Inspection Committee for assessing the suitability of the school, for affiliation of the school with the Board for courses applied for.

20. The sub-Regulation (4) of Regulation (14) contemplates a situation, where, on scrutiny of the applications, it is found that the school does not fulfill the minimum conditions and lays down that in such circumstance, before appointment of an Enquiry Committee, it shall be placed before the Committee for appropriate decision. Sub-Regulation (4) of Regulation 14 of the Regulations, thus, requires that even if, on scrutiny of applications, it is found that the school does not fulfill the minimum conditions, the applications cannot be rejected at once; rather, it has to be placed before the Committee 'for appropriate decision'. Sub-Regulation (5) of Regulation 14 of the Regulations specifically provides that a Committee shall be constituted by the Board for 'granting and withdrawing' affiliation of Secondary and Senior Secondary School, established by non-government organizations.

21. Referring to the language used in sub-Regulation

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(5) of Regulation 14 of the Regulations, a plea has been taken on behalf of the petitioners that since constitution of the Committee is also for withdrawal of affiliation, any move to cancel affiliation ought to have been essentially placed before the Committee.

22. In response to this argument made on behalf of the petitioners, Mr. Lalit Kishore, learned Senior Counsel, appearing on behalf of the Board, has submitted that the words 'and withdrawing', occurring in sub-Regulation (5) of Regulation 14 of the Regulations, are superfluous and no importance should be attached to these words in the light of Regulation 15 of the Regulations, which deals with and lays down procedure for withdrawal of affiliation, having no requirement, that matter of withdrawal of affiliation should be placed before the Committee. According to him, only for the purpose of grant of affiliation, under Regulation 14 of the Regulations, the matter is required to be placed before the Committee. He has, accordingly, submitted that the impugned action cannot be questioned on the ground that the matter was not placed before the Committee. In support of his plea, he has relied on Supreme Court's decision, in case of ***Union of India and Another v. Hansoli Devi and Other.***, reported in ***(2002) 7 SCC 273 (para-9)***. He has argued that presence of the said two words, *viz.* 'and withdrawing', is a result of

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'*slip*' by the draftsman, which is inconsequential. He has referred to the decisions of House of Lords, in the cases of ***Inland Revenue Commissioners v. Dowdell O'Mahoney & Co., Ltd.***, reported in ***1952 (1) All ER 531***, and ***Inco Europe Ltd. & Ors. v. First Choice Distribution (a firm) & Ors.***, reported in ***(2000) 2 All ER 109*** to buttress his contention.

23. Mr. Abhay Kumar Singh, learned Senior Counsel, appearing on behalf of the petitioners, in some of the cases, has urged that it is not a sound principle of construction to brush aside the words in a Statute as being inapposite surplusages, if they can have appropriate application in circumstances conceivably within the contemplation of the Statute. He has contended that a statutory provision, be it an act of Legislature or delegated Legislation, the competent authority is deemed not to waste its words or to say anything in vain. Emphasizing on the principle of purposive rule of interpretation, approved and adopted by the Supreme Court, in the case of ***Tirath Singh v. Bachittar Singh and Others*** (***AIR 1955 SC 830***), he has submitted that sub-Regulation (5) of Regulation 14, read with Regulation 15 of the Regulations, leads to a plausible, logical and reasonable interpretation that all matters, relating to withdrawal of affiliation, must be placed before the Committee, more

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particularly when, the affiliation is granted only after the matter is placed before the Committee to decide whether the school is to be granted affiliation. He has argued that since the decision to affiliate or not vests in the Committee, decision to cancel or withdraw affiliation cannot be taken without the Committee.

24. In order to appreciate the rival submissions made on behalf of the parties in this regard, it would be apposite to reproduce Regulations 14 and 15 of the Regulations, which read as follows:-

> "**14. Submission of Applications for Affiliation and Follow-up Action.**– (1) The school fulfilling the norms of Affiliation given in Chapter-II may apply to the Board for approval of Affiliation/Up-gradation and Composite Affiliation of Senior Secondary Classes on the prescribed form along with prescribed fee given in Appendix II before 30 June of the year, preceding the year in which Class IX/XI as the case may be in proposed to be started.
>
> (2) Before applying, the school should ensure that it fulfils the essential requirements will be considered in case the essential requirements of affiliation as given in clause 3 of Chapter II. No application will be considered in case the essential requirements are not fulfilled by

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the School.

(3) On receipt of applications, the Board will examine the documents on various conditions and in case it observes that the school fulfils the essential conditions an inspection committee will be appointed in order to assess the suitability of the school for affiliation of the school with Board for classes applied for.

[(4) After scrutiny of the application, it is found that the school does not fulfill the minimum conditions. Then before appointment of Enquiry Committee, it shall be place before the Affiliation Committee for appropriate decision.]

(5) **Committee of Affiliation.**-A committee of affiliation shall be constituted by the Board for granting and withdrawing affiliation of Secondary and Senior Secondary School established by Non-government Organizations. The committee of affiliation shall consist of following :

(i) Chairman of the Board.

(ii) Secretary, Bihar School Examination Board or his nominee.

(iii) A person to be nominated by Board.

The Chairman of the Board shall function as the Chairman of the committee and the Secretary of the Board shall function as Secretary of the

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Affiliation Committee. When the Board is superseded under section 10 A of the Bihar School Examination Board Act, 1952; the Administrator appointed by notification for carrying out the functions of the board shall function as Chairman of the Committee.

(6) If any dispute arises out of the functioning of the committee or any person dissatisfied with the decision of the board may within 30 days of the communication of such decision prefer appeal before the authority as mentioned in sub section (4) of section-10 (b) of Bihar School Examination Board Act-1952 as amended from time to time and its decision shall be final and binding upon the parties.

[(7) The newly affiliated institution by the Board neither may claim any grant from the government nor claim for take over by the Government.]

(8) The inspection report along with observations of the office will be placed before The Affiliation Committee of the Board at its next meeting to decide whether the school be granted affiliation, as the case may be. The decision about grant of affiliation etc. will be communicated to the school immediately after the approval of Affiliation Committee.

Provided that in appropriate cases

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the said conditions can be relaxed by the Chairman of the Board. Subject to the conditions that the school will make fresh applications for affiliation for the Secondary classes or Senior Secondary Classes on the prescribed form in accordance with the [Regulation, 2011] and conditions for Affiliation/Up-gradation even when session has been started.

(9) The school should not start classes of IX/XI without written approval of the Board. The Board shall not be responsible for any consequence in case class IX/XI is started without written approval of the Board.

(10) Those schools which satisfy all the conditions of the affiliation [Regulation, 2011] including that of the land will be given affiliation for a period of three years and renewable thereafter subject to compliance of the conditions of such affiliations and provisions of the Act and [Regulation, 2011].

(11) Not with standing anything contained hereinabove, any Branch(es) or Units(s) of a School/ Group of School(s) affiliated/ seeking affiliation to the Board shall not be deemed to be affiliated to the Board even if such main school seeking Affiliation stands affiliated to the Board unless such Branches/ Units apply afresh and are granted affiliation by the Board as provided heretofore.

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(12) Request for extension of Affiliation for Secondary/Senior Secondary classes shall be made by the School Authority by 30 June of the preceding year in which the affiliation expires.

[(13) On any dispute regarding recognition to society/trust of any institution, the decision passed by competent Court/Authority shall be valid.]"

"15. Withdrawal of Affiliation Affiliated School.–(1) Affiliation may be withdrawn by the Board either in a particular subject or in all subjects. Institution imparting secondary education may be disaffiliated if the Board is satisfied that such institutions are not fit to enjoy continuing affiliation to the Board.

(2) (i) The non Government recognized secondary schools were taken over on 2nd October 1980 vide Bihar non Government Secondary School (taking over of management and control) Act 1981. Such schools shall be deemed to have seen affiliated to the Board for the purposes of secondary examination

(ii) The proposed secondary schools which were recognized and taken over after 2nd October 1980 shall be deemed to have been affiliated to the Board for the

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purposes of secondary examinations.

(iii) The proposed schools which were recognized under section 18 and 19 of Bihar non Government Secondary School (taking over of management and control) Act, 1981 as proprietary schools shall also be deemed to have been affiliated to the Board for the purposes of secondary examinations.

(iv) The non Government recognized secondary schools which were recognized prior to 2nd October 1980 or after 2nd October 1980 and later on declared minority aided secondary school, shall be deemed to have been affiliated to the Board for the purposes of secondary examinations.

(v) All the Boys and Girls Government Secondary Schools shall be deemed to have been affiliated to the Board for the purposes of secondary examinations.

(3) Proceedings for withdrawal of affiliation may be initiated by the Board after reasonable notice to the school Management Committee of non observance of the following conditions by the schools:-

(i) Financial irregularities including diverting of funds for purpose other than those provided for in these [Regulation, 2011].

(ii) Engagement in activities

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prejudicial to the interest of the State, inculcating or promoting feelings of disloyalty or dis-affection against the Government established by law.

(iii) Encouraging or tolerating disharmony/hatred between different sections of the Society.

(iv) Non-fulfillment of conditions laid down regarding deficiencies to be removed even after due notice.

(v) Disregard of rules and conditions of affiliation even after receiving warning letters.

(vi) Hindrance in the smooth functioning of the school on account of dispute between rivalries within the school management.

(vii) Poor academic performance of the school for three consecutive years in not being able to kept at least 50 percent of passes of the general pass percentage.

(viii) Non-availability of proper equipment/space/staff for teaching a particular subject.

(ix) Any other misconduct in connection with the admissions/ examinations/any other area which in the opinion of the Board warrants immediate disaffiliation of the school.

(x) In case of transfer of property/ sale of school by one Society/ Management/Trust to another Society/ Management/Trust through agreement/

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Sale deed.

(xi) Any violation of the norms that have been prescribed by the Hon'ble Supreme Court of India in the writ petition (Criminal) nos. 666-70 of 1992 Vishaka and others V/s State of Rajasthan and others delivered on 13-08-1997 for protection of women from sexual harassment at the work place if established would attract strict action against the institution which may even lead to disaffiliation.

(xii) Violation of the provisions of sub-clause 3 of chapter II.

(4) The Board shall provide adequate time and opportunity to the Management of the school served with a "Show Cause Notice" up to a maximum of one year for adequate compliance/removal of defects failing which the Board may declare the institution disaffiliated. Such decision by the Board shall be final and binding. The maximum period of reply to "Show Cause Notice" may not exceed one month.

(5) Mere submission of application form for affiliation or its pendency with the Board shall not entitle any school a right "to be affiliated to the Board" nor will it resort to do anything in any manner which may create any wrong impression in the public mind to this effect.

(6) Within the general framework of

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Clause 15 of Chapter-IV, the Board reserves the right to withdraw affiliation in the event of a school failing to observe affiliation norms and rules and/or the pass percentage in most of the subjects goes lower than the pass percentage of each subject at the examinations of the Board, continuously for three years. The Board will ask such a school to rectify the deficiencies in the given adequate time (6 months to one year). If the school fails to show improvement, it will lose the status of an affiliation school and will revert to a disaffiliated school status.

(7) In the event of a school failing to maintain the prescribed norms for affiliated schools and/or rules of the Board and/or the school deteriorates in standards of performance, the Board will ask such a school to rectify the deficiencies and come upto standard prescribed for maintaining affiliation within a period not exceeding one year. If the school fails to meet the requirement it may lose the status of an affiliated school and may be dis-affiliated, if considered necessary by the Board.

(8) In case a school is subjected to disaffiliation and if files application for revival of the affiliation within five years of such disaffiliation, its case shall be considered on merits by the Affiliation Committee without charging fresh fee for

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> affiliation. However, repeated violation of the [Regulation, 2011] will lead to permanent disaffiliation of the school."

25. I need to revert back, now, to Sections 10B and 10C of the Act, which have been quoted in paragraph 5 of this judgment, where lies the direct answer to the submissions advanced on this point, on behalf of learned Counsel for the parties. Sub-Section (1) of Section 10B of the Act mandates constitution of 'Committee of Affiliation' by the Board for "granting and withdrawing" affiliation to Secondary and Senior Secondary Schools, established by non-governmental organizations. Section 10C of the Act, without any ambiguity in the language, states that the Board shall have power to grant and withdraw affiliation of Secondary and Senior Secondary Schools, on the basis of 'recommendation of the Committee of Affiliation'. The Board, as is evident from the language of Section 10C of the Act can grant or withdraw the affiliation on the basis of recommendation of the Committee of Affiliation only and not otherwise. Regulation 14 (5) of the Regulations is ostensibly in accordance with and in compliance of Sections 10B and 10C of the Act. Submission made by Mr. Lalit Kishore, learned Senior Counsel, that the words "and withdrawing", occurring in sub-Regulation (5) of Regulation 14 of the Regulation are superfluous and result of *'slip'* by

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draftsman is not at all tenable. Regulation 15 of the Regulations will have to be read with Section 10C of the Act which is the parent Act which mandatorily prescribes that the decision of the Board to grant of withdraw affiliation shall be 'on the basis of recommendation made by the Committee of Affiliation'. Submissions advanced by Mr. Lalit Kishore, as noticed above, on this point being contrary to the provisions of main Act, deserve to be rejected and are hereby rejected.

26. For the same reason, the principles enunciated, in case of ***Dowdell O'Mahoney & Co., Ltd.*** (supra), can have no application in the facts of the present case.

27. I, accordingly, hold that the matters, relating to withdrawal of affiliations, are to be mandatorily placed before the Committee, constituted under Section 10B of the Act, read with sub-Regulation (5) of Regulation 14 of the Regulations, for 'granting and withdrawing affiliations' of Secondary and Senior Secondary Schools, established by non-governmental organizations.

28. There being no dispute that the matter was not placed before the Committee, the impugned decisions of the Board of withdrawing/cancelling the affiliations of the schools/colleges, which have approached this Court in the present proceedings, are, accordingly, illegal and unsustainable and deserve to be set aside.

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29. I, now, intend to address another ground of challenge to the impugned action taken by the petitioners in the present proceedings. To address the said challenge and the questions of law raised in this regard, I need to take note of certain basic facts as pleaded on behalf of the petitioners and the contesting Board. With some variance of minor nature, broadly speaking, the affiliations have been withdrawn on the ground of insufficient infrastructure, having been maintained by these schools and furnishing incorrect information to the Board at the time of seeking affiliation. Since CWJC No. 1366 of 2017 ***(Ucchatar Madhyamik School v. The State of Bihar & Ors.)*** has been argued as the lead case in the present batch of cases and learned Counsel, appearing in other cases, have advanced their submissions on legal issues, with reference to the facts involved in their cases, I am taking the facts pleaded in CWJC No. 1366 of 2017, for the purpose of present, judgment.

30. It is the case of the petitioner that Ucchatar Madhyamik School (+2), Gaya, was established by Trimurti Educational Trust, Gaya, for imparting education to the students up to Intermediate level in an area, which is affected by the *naxallite* extremism. The school had applied for grant of affiliation. An Inspection Committee was constituted, which had conducted on the spot inspection and physical verification

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of the school. On the basis of the Inspection Report, the Committee of the Board, while considering the matter of affiliation, granted composite affiliation for +2 level study in Arts, Science and Commerce streams, comprising of 3 Sections of 40 students each, for Academic Session 2015-17, subject to fulfillment of certain conditions. The decision of the Committee was informed to the school by the Secretary of the Board and after fulfillment of all the requisite conditions imposed upon the school; *Code No. 21188* was allotted to the school.

31. On 02.07.2016, the Secretary of the Board asked the District Magistrates of all the districts, in the State of Bihar, to make on the spot inspection and physical verification of certain schools including the school of the petitioner. A re-inspection of petitioner's school was carried out by the Inspection Team, headed by the Additional Collector, Gaya, and a report, dated 26.08.2016, was submitted. On the basis of findings in the said report, affiliation of the school was suspended and a show cause notice was issued to the petitioner school, under Clause 15 of the Regulations, calling upon the school to explain as to why the affiliation granted to it be not withdrawn. A copy of the said re-inspection report was made available to the petitioner school. The school submitted its reply to the said show cause notice, stating that

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the school was located in extremely backward area and it gave an undertaking to the Board that it would fulfill the conditions, laid down in the Regulations, within the time frame, as provided in the Regulations. It is the case of the petitioner that though respondent No. 8 received the show cause reply, submitted on behalf of the school, the Board cancelled the affiliation of the school by impugned decision, dated 22.11.2016, without considering the same.

32. On perusal of the impugned order, dated 22.11.2016, it appears that the cancellation is mainly on the ground that the school did not have infrastructure as per the condition of requirements of affiliation laid down in the Regulations.

33. One I. A. No. 1592 of 2017 has been filed on behalf of the petitioner-school for deleting some part mentioned in paragraph 31 of the writ application, *i.e.*, *"and on the basis of the wrong statement that it has not received the reply to show cause"* and to read paragraph 31 of the writ application thus:-

> "**31.** That the respondent no. 8 received the reply to show cause but without considering the reply to the show cause, Respondent no. 8 has terminated the affiliation of the petitioner-school vide letter no. Stha. 3648/2016 dated 22.11.2016".

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34. For the reasons mentioned in the interlocutory application, I. A. No. 1592 of 2017 is, hereby, allowed. Let, what has been quoted above be treated to have been substituted in place of statement made in paragraph 31 of the writ application.

35. The facts, which have been averred in the writ application, have not been disputed in the counter affidavit filed on behalf of the Board.

36. It has broadly been argued on behalf of the petitioner that Regulation 3 (3) of the Regulations lays down the minimum essential conditions for affiliation in terms of infrastructure (building, furniture etc.). *Proviso* to sub-Regulation (3) of Regulation 3 of the Regulations empowers the Board to relax the aforesaid conditions in case of non-availability of schools in particular area or place. The Committee has the powers to relax the said condition of affiliation in case of women's institutions also. Further, *proviso* to sub-Regulation (4) of Regulation 3 of the Regulations states that those Secondary/Higher Secondary (+2 College) affiliated with the Board in case of not fulfilling the standards, specified in Regulation 3 of these Regulations, shall have to fulfill the specified standards within 3 years, essentially. It is also the case of the petitioner that the Board, while granting affiliation to the school had relaxed conditions because of non-

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availability of school in the area. It has further been argued that, as per Clause (a) of sub-Regulation 4 of Regulation 3 of the Regulations, a Senior Secondary School should be provided within 5 kilometers of every habitation. The State has failed to provide school in the said area to implement Clause (a) of sub-Regulation (4) of Regulation 3 of the Regulations. It has been stated in paragraph 24 of the writ application that the schools, located in the vicinity of the petitioner's school, which are aided government schools, have inferior infrastructure than the petitioner's school, even with less teachers. Examples have been given, referring to the schools, namely, (i) Shahid Senior Secondary School, which is operating in only 2 rooms, (ii) Haranchand Uchch Madhyamik Vidyalaya, having around 1000 students, is operating out of poor infrastructure and (iii) Gautam Budh Mahila Senior Secondary School has similar infrastructure and teacher issues.

37. Though counter affidavits have been filed on behalf of the Board and the State of Bihar, these specific averments have not been controverted. Such statements, thus, stand admitted, applying the doctrine of *non-traverse*.

38. It has also been argued on behalf of the petitioner that the Board does not have any power of suspension of affiliation granted to the school. In the event, it

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is found that the school does not fulfill essential conditions for affiliation, as specified in sub-Regulation (3) of Regulation 3 of the Regulations, such school ought to have been granted 3 years time to fulfill the conditions as contemplated under the *proviso* to sub-Regulation (4) of Regulation 3 of the Regulations. The school ought to have been given adequate opportunity for removal of the deficiencies, as pointed out in the inspection report, instead of proceeding to cancel the affiliation itself, the petitioners contend.

39. Mr. Abhay Kumar Singh, learned Senior Counsel, appearing on behalf of a group of writ-petitioners, has further argued that there is a significant shift in the provisions, in relation to the consideration of applications for affiliation of schools from, as they existed in Bihar School Examination Board (Senior Secondary) Affiliation Bye-Laws, 2011 *(in short 'Bye-laws of 2011')*, to those available in the Regulations framed in 2013, which have replaced the Bye-Laws. As per the earlier procedure, Clause (4) of Article 14 of the Bye-laws of 2011 required that in case, on scrutiny of application it was found that the school did not fulfill the minimum conditions, the School would be informed accordingly, and no further action would be required to be taken by the Board till the essential conditions were fulfilled, to the satisfaction of the Board. The said Bye-laws of 2011 have been replaced by

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statutory Regulations, *i.e.*, Bihar School Examination Board (Senior Secondary) Affiliation Regulations, 2013. Sub-Regulation (4) of Regulation 14 of the Regulations prescribes that after scrutiny of the application, if it is found that the school does not fulfill the minimum conditions, then, before appointment of Enquiry Committee, it shall be placed before the Committee for appropriate decision. He, accordingly, contends that the shift is meaningful and significant and it has definite purpose to achieve by considering even applications of even such schools, which do not fulfill the essential conditions of affiliation as strictly prescribed under Regulation 3 of the Regulations. There is corresponding change, according to him, in sub-Regulation (4) of Regulation 3 of the Regulations by incorporating a *proviso*, which reads, "*provided that those Secondary/High Secondary (+2 College) affiliated with Bihar School Examination Board in case of 'not fulfilling the standards specified in Regulation 3 of these Regulations, 2011 shall have to fulfill the specified standards within 3 years essentially"*. He has submitted that slight change in Regulation 14, as noted above, read with *proviso* to sub-Regulation (4) of Regulation 3 of the Regulations, suggests that the State Government of Bihar and the Board intended that affiliation can be granted affiliation even to such schools which failed to strictly fulfill the conditions of requirement, laid down in sub-

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Regulation (3) of Regulation 3 of the Regulations. He has submitted that since the State of Bihar, on the basis of its own resources, was failing to implement Right to Education Act accomplish the statutory goal by providing educational institutions, as per the requirements of the Right to Education Act, in remote areas, the State Government and the Board appear to have taken this conscious decision to relax the essential requirements, so that private educational institutions can be granted recognition and affiliation, even if they failed to satisfy strictly the essential requirements of affiliation. He has argued that in the present scenario, the relationship between the State and the private schools, in the matter of imparting education up-to Secondary and Senior Secondary level, should be symbiotic in nature. He has submitted that approach of the regulator of education, which the Board is, must be of facilitator, enabler and not of an obstructionist. The Regulation 3 (3) (c) and Regulation 15 (3) (iv) of the Regulations, if conjointly read, are in tune with the said constitutional approach of role of regulator of education, he contends.

40. Mr. Singh, learned Senior Counsel, has also invoked the Rule in ***Hydon's case (****Mischief Rule****)*** to contend that new provisions, *i.e.*, *proviso* to sub-Regulation (4) of Regulation 3 of the Regulations and change in sub-Regulation

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(4) of Regulation 14 of the Regulations had definite purpose, which is to suppress the mischief and to advance the remedy by allowing relaxation.

41. Mr. Lalit Kishore, learned Senior Counsel, appearing on behalf of the Board, on the other hand, has submitted that the *erstwhile* Chairman of the Board had acted in brazen disregard to mandatory statutory provisions and had granted or was instrumental in granting affiliations to various schools, which were not fulfilling the basic essential requirements. According to him, the grant of affiliation to the schools, in question, by the Board itself was a result of fraud played by the previous team, with the help of the officers of the Board, who worked in tandem, which has been detected by an efficient Chairman of the Board, who is presently functioning. He has submitted that grant of affiliation to such schools were *void ab initio* and, therefore, the action does not require interference by this court under equitable writ jurisdiction. He has relied on Supreme Court's decision in case of ***Rohilkhand Medical College & Hospital Vs. Medical Council of India and Another***, reported in ***2013 (15) SCC 516***, to submit that fraud vitiates all acts and since it is apparent from the report that these schools had misrepresented by furnishing incorrect facts, on the basis of which they had been granted affiliation, the Court should

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refuse to interfere with the impugned action of the Board.

42. To appreciate the submission made on behalf of the petitioner invoking mischief rule (Heyden's Rule), it would be apposite to take note of the relevant provisions under Clause 14 of the Bye-Laws of 2011 and corresponding provision under Regulation 14 of the Regulations of 2013 which replaced the Bye-Laws. Clause 14 of the Bye-Laws dealt with submission of application for affiliation and follow up action. Sub-Clause (3) and (4) of Clause 14 read thus:-

> "14. (3) On receipt of applications, the Board will examine the documents on various conditions and in case it observes that the school fulfils the essential conditions an inspection committee will be appointed in order to assess the suitability of the school for affiliation of the school with Board for classes applied for.
>
> (4) In case on scrutiny of application, it is found that the school does not fulfill the minimum conditions, it will be informed accordingly and no further action will be taken by the Board till the essential conditions are fulfilled to the satisfaction of the Board."

43. Regulation (14) of the Regulations of 2013 also deals with submission of application for affiliation and follow up action. Sub-clause (3) and (4) of Regulation 14, which has

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already been quoted above is being reproduced herein below for immediate comparison between earlier provision and the present one:-

> "(3) On receipt of applications, the Board will examine the documents on various conditions and in case it observes that the school fulfils the essential conditions an inspection committee will be appointed in order to assess the suitability of the school for affiliation of the school with Board for classes applied for.
>
> [(4) After scrutiny of the application, it is found that the school does not fulfill the minimum conditions. Then before appointment of Enquiry Committee, it shall be place before the Affiliation Committee for appropriate decision.]"

44. Further, a proviso has been added below sub-Regulation (3) of Regulation 3 of the Regulations, which reads thus:-

> "Provided that the aforesaid condition may be relaxed by the Board in case of non-availability of school in particular area or place. The affiliation committee shall have powers to relax the condition of affiliation in case of women's institutions."

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45. This provision was not there in the Bye-Laws of 2011. The proviso, thus, enables the Board to relax conditions of affiliation in case of non-availability of schools in the area. The Committee has, thus, now, been given power to relax the condition of affiliation in case of women's institution. The shift is apparent and significant, which cannot be overlooked.

46. The change in approach, while dealing with matters of grant of affiliation, is also manifested with incorporation of another proviso to Regulation (4) of Regulation 3 of the Regulations, which reads as follows:-

> "Provided that those Secondary/ High Secondary (+2 College) affiliated with Bihar School Examination Board in case of not fulfilling the standards specified in Regulation 3 of these Regulations, 2011 shall have to fulfill the specified standards within 3 years essentially."

This provision was also not there in the Bye-Laws.

47. In reply to a query made by this court, as to under which provision of the Act or Regulations, the Board could suspend the affiliations granted to these schools, Mr. Lalit Kishore, learned Senior Counsel, appearing on behalf of the Board, has submitted that such power is inherent with the Board. It is his contention that since the Board has power to grant affiliation, it has inherent power to suspend affiliation.

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48. Upon comparing the provisions in the Bye-Laws and the provisions incorporated in the Regulations subsequently, as noticed above, it is manifest that the State Government and the Board intended to allow relaxation to such institutions, which were not fulfilling strictly the conditions laid down for affiliation under Regulation 3 of the Regulations. Merely on the basis, therefore, that institutions did not fulfill the conditions, the respondents ought not to have cancelled the affiliation without allowing the institutions to fulfill the specified standards within a reasonable time.

49. Mr. Singh, learned Senior Counsel, appearing on behalf of the petitioners, has rightly submitted, invoking the mischief rule that subsequent changes were made by way of Regulations in order to suppress the mischief since there existed mischief in the form of absence of any provision for grant of relaxation in the conditions of affiliation. There is no denial on behalf of the State of Bihar that it has failed to achieve so far, its goal to provide senior secondary schools, as contemplated in sub-Regulation (4) of Regulation 3 of the Regulations.

50. In my view, the statutory function of withdrawal or cancellation of affiliation can be exercised by statutory authority in accordance with the provisions of a Statute, keeping in mind the entire scheme of statutory provisions. A

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plea that previous incumbent to the post of Chairman indulged in irregularities etc., *per se,* cannot be the basis for taking any such action of cancellation of affiliations granted by the Board during previous regime, which too had exercised statutory functions.

51. The decision of the Supreme Court, in the case of ***Rohilkhand Medical College & Hospital*** *(*supra), does not apply in the present case as in that case, there were allegations of use of fake and forged materials to get sanction for intake of students. In that background, the Supreme Court had allowed the Medical Council of India to take action under Regulation 8(3)(1) (d) of the Regulations for establishment of Medical College Regulations, 1999, without waiting for the charge sheet to be filed by the C.B.I. The said provision, under Regulation 8(3)(1) (d) of the Regulations of 1999, requires the Medical Council of India not to consider renewal of permission/recommendation for award of M.B.B.S. degree/processing the application for post-graduate courses for two academic years, if the institute is found to have employed teachers on the basis of fake/forged documents. The said decision of the Supreme Court, in my view, cannot be made the basis to allow the Board, cancel affiliation in the manner it has been done.

52. On the basis of what has been noted above, it is

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apparent that the Board overlooked the proviso to sub-Regulation (3) and sub-Regulation (4) of Regulation 3 of the Regulations while taking impugned decision. The impugned actions of the Board in cancelling/withdrawing affiliations of the petitioner schools stand vitiated for the said reason also.

53. On the basis of discussion, as above, I conclude as follows:-

(i) The decision to withdraw affiliations cannot be said to have been taken by the Board, as discussed hereinabove and for that reason, the impugned orders of cancellation of affiliation cannot be sustained.

(ii) In breach of mandatory requirement under Section 10C of the Act, orders of withdrawal of affiliation have been issued, without recommendation of the Committee of Affiliation, constituted under Section 10B of the Act. As a matter of fact, the matters relating to cancellation of affiliation were never placed before the Committee. This is another reason why impugned orders of cancellation of affiliation have become vulnerable.

(iii) In any view of the matter, the Board has apparently overlooked the proviso to sub-Regulation (3) and sub-Regulation (4) of Regulation 3 of the Regulations and on this count also, the impugned action of the Board deserves interference.

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54. Consequently, the orders impugned in the present batch of writ applications withdrawing affiliations of the respective schools/colleges are hereby set aside.

55. In the present batch of cases, the affidavits have been filed on behalf of the petitioners giving an undertaking that they shall remove all the deficiencies and fulfill the conditions of affiliations within different periods of time mentioned therein. The Court expects the Board to consider individual cases of the schools and if it is found permissible, allow them time to remove such deficiencies in terms of proviso to sub-Regulation (4) of Regulation 3 of the Regulations. The Board, for the said purpose, will be required to undertake the exercise afresh to ascertain whether these schools fulfill conditions of affiliation or are in a position to overcome the deficiencies. A positive and constructive approach, if taken by the Board, may have good results in larger public interest. The Board, while taking any decision, must keep in mind whether Government schools and Government aided schools do have the infrastructure and teaching facilities to meet the standards of conditions for affiliation.

56. Before I part with, I must take note of the third proviso to Section 10C of the Act, which states, *inter alia,* that before withdrawing affiliation, the students admitted in such

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schools or institutions shall be allowed to complete their academic sessions and appear at the next examination conducted by the Board. I direct the Board not to overlook the said provisions in any case. The language of third proviso to Section 10C of the Act is enough indication that the Board does not have power to suspend, with immediate effect, affiliation of a school and the said power cannot be said to be inherent in the Board.

57. These applications are allowed accordingly with the observations as above.

58. In the facts and circumstances, there shall be no order as to costs.

59. Let the original records produced by the Board be returned to Mr. Satyabir Bharti, learned Counsel for the Board.

(Chakradhari Sharan Singh, J.)

ArunKumar/

AFR/NAFR	AFR
CAV DATE	18-05-2017
Uploading Date	25-08-2017
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