

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12913 of 2018

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Md. Muzaffar Hussain President Managing Committee Madarsa Imdadul
Muslamia Singhari, P.O. Piyazil, P.S. Rauta, District Purnea, Madarsa No.
592.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Education Department,
Bihar.
2. The Special Secretary Education Department of Bihar.
3. The Bihar State Madarsa Education Board, Patna through its Secretary.
4. The Chairman Bihar State Madarsa Education Board, Patna.
5. Dr. Md. Noorul Islam Inspector Academic Incharge Bihar State Madarsa
Education Board, Patna.
6. Block Education Officer, Baisa, District - Purnea.
7. Md. Saidur Rahman President New Managing Committee Madarsa Imdadul
Muslimin Singhari, P.O.Piyari, P.S. Rauta, District - Purnea, Madarsa No.
592.
8. Mulana Farid Alam Secretary New Managing Committee Madarsa Imdadul
Muslimian Singhari, P.O.Piyari, P.S. Rauta, District - Purnea, Madarsa No.
592.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Durga Nand Jha and Mr. Md. Ziaul Quamar
For the Respondent/s	:	Mr. Smt.Binita Singh -SC-28
For the Board		Mr. Rashid Alam, Advocate

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

2 18-08-2018 Heard learned counsel for the parties.

2. Disputed question of facts are again being raised in
the present proceeding under Article 226 of the Constitution of
India, despite clear observation recorded in CWJC No. 6528 of
2017 that such disputed question of facts between the contesting
parties could not be gone into in the writ proceeding. Earlier,
Respondent No. 8 had approached this Court by filing CWJC



No. 6528 of 2017, questioning an order dated 12.04.2017, passed by the Joint Director (Secondary Education), Govt. of Bihar, Patna. The writ petition was dismissed by order dated 29.06.2017, with the following observation in paragraph 4:-

“4. I have perused the impugned order and I find that the rival claims of the two Managing Committees, one headed by Md. Muzzaffar Hussain (Respondent No.10) and the other headed by said Sayeedur Rahman, are based on numerous disputed questions of facts, which cannot be adjudicated upon in the present writ proceedings”.

3. An appeal was preferred under the Letters Patent of this Court giving rise to LPA No. 1131 of 2017, which also came to be dismissed by this Court by order dated 17.05.2018. In both these cases, the petitioner was impleaded as respondent. In the meanwhile, the appellate authority, under Section 28 of the Bihar State Madrasa Education Board Act disposed of an appeal preferred by this petitioner by order dated 12.04.2018 which is being challenged in the present writ application.

4. Disputes of similar nature, as were available in CWJC No. 6258 of 2017 are being raised in the present proceeding. This time the order of the appellate authority, has gone in favour of respondent No.8, who was writ petitioner in



CWJC No. 6528 of 2017.

5. Learned counsel, appearing on behalf of the Board, on the other hand, has submitted that the present appellate authority, who is competent authority, has passed an order on the appeal preferred by the petitioner in the present writ application and, therefore, the petitioner cannot have a grievance against the disposal of his appeal by the competent authority.

6. I deprecate the conduct of the petitioner in raising a plea that the appellate authority ought not to have passed the order dated 12.04.2018, in view of the observations made by this Court in the order dated 29.06.2017, in CWJC No. 6528 of 2017. In the said order, the Court had observed that the disputed questions of facts raised in the writ application could not be adjudicated upon in the writ proceedings. The said observation did not mean that the statutory appellate authority did not have the jurisdiction to decide an appeal. The petitioner himself had filed the said appeal giving rise to Appeal No. 40 of 2017 and he pursued the said appeal, as is evident from the order. The statutory appellate authority, in that circumstance had legal obligation to decide the appeal, which he discharged with the passing of the impugned order. Challenging the said order on



the ground that in the light of the order of this Court in CWJC No. 6528 of 2017 and subsequent order in LPA No. 1131 of 2017, the appellate authority ought not to have passed the order, is not only wholly misconceived, it is an abuse of the process of the Court.

8. This application lacks *bona fide* and deserves to be dismissed with a cost of Rs. 20,000/-. Accordingly, let the cost of Rs. 20,000/- (twenty thousand) is to be paid by the petitioner to the Board, within three months from today.

(Chakradhari Sharan Singh, J)

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