

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16021 of 2015

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Md. Atiqullah, Son of Md. Shamim, Resident of village + P.O. Parsa, P.S. Bela, District - Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Bihar, Patna
2. The Director Secondary Education, Bihar, Patna
3. The Special Director, Secondary Education, C
4. The Director Cum Additional Secretary, Education Department, Secondary Education, Bihar, Patna
5. The Joint Secretary, Education Department, Secondary Education, Bihar, Patna
6. The District Magistrate, Sitamarhi
7. The District Education Officer, Sitamarhi
8. The Chairman, Bihar State Madarsa Education Board, Patna
9. The Secretary Bihar State Madarsa Education Board, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 301 of 2018

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Ahmad Raza, Son of Abdul Kayum resident of village/post office Betaha P.S. Bela District Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Joint Secretary, Education Department, Govt. of Bihar, Patna.
3. The Bihar State Madarsa Education Board Vidyapati Marg, Patna through the Secretary.
4. The Chairman, Bihar State Madarsa Education Board Vidyapati Marg, Patna, Bihar.
5. The District Magistrate, District Sitamarhi.
6. The District Education Officer, District Sitamarhi.
7. The District Programme Officer (Establishment), District Sitamarhi.
8. The B.E.D./Area Officer Panchayat Post Betaha Police Station Bela Block Parihar, District Sitamarhi.
9. The Managing Committee of Madarsa Zedul Oloon at post Betaha P.S. Bela, Block Parbhar Distt. Sitamarhi (Madarsa Code 609/205) through its Secretary of New Managing Committee) Md. Ali Murtuza, son of Ali Hassan, R/o-Betaha, P.S. Bela Distt. Sitamarhi
10. Md. Badiuzzama son of late Mutid Haque r/o village Betaha Panchayat Betaha Police Station Bela, Distt. Sitamarhi.
11. Md. Qumruzzama son of late Motiul Haque @ Motibul Haque r/o Village Post Panchayat Betaha P.S. Bela , Distt - Sitamarhi.



12. Md. Somi Haidar son of Abdul Gani r/o village Post Betaha P.S. Bela, Distt. Sitamarhi.
13. Nazir Ahmad son of Md. Yakub r/o village Sakki Mashania via Paraha Distt. Sitamarhi.
14. Md. Afsar Ali son of Abdul Haban r/o village Taurk Begha Distt. Rohtas.
15. Md. Sanaudllaha son of Md. Daud r/o village Bara Post Lahariya Distt. Sitamarhi.
16. Md. Wakil son of Ali Imam r/o village Post Betaha Via Parihar Distt. Sitamarhi.
17. Md. Sharfuddin son of Md. Bashruddin r/o village Post Betaha Via Parihar Distt. Sitamarhi.
18. Md. Ashfakk Kalam son of Md. Mobus r/o village Post Betaha Via Parihar Distt. Sitamarhi.
19. Md. Neyaz son of Md. Ayub r/o village Emharna Post Parihar, Distt. Sitamarhi.
20. Md. Naked Defar s/o Md. Mashehuddin r/o village Post Betaha Via Parohr Distt. Sitamarhi.
21. Md. Masibuzzauma son of Md. Qummazzama r/o village and post Betaha PS Parhar, Distt Sitamarhi.
22. Md. Abrar Anwar son of Md. Isharab Haque r/o village Parihar Sitamarhi Distt. Sitamarhi.
23. Md. Masaluddin son of Md. Bashiruddin r/o village and post Betaha Via Parihar, Distt. Sitamarhi.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Soban Asghar, Advocate
For the State	:	Mr. Anjani Kumar, AAG-4
		Mr. Amit Kumar Jha, A.C. to AAG-4
		Mrs. Shilpa Singh, G.A. 12
		Mr. Ranjan Kumar, A.C. to G.A. 12
For the Madarsa Board	:	Md. Rashid Alam, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-03-2018

Petitioner claiming to be a public spirited person has filed this writ petition primarily on the ground that in the district of Sitamarhi 88 Madarsas have been granted recognition by the State Government inspite of the fact that the District



Education Officer, Sitamarhi by his communication bearing Letter No. 2712 addressed to the Secretary, Bihar State Madarsa Education Board, Patna has submitted an Inquiry Report and given an adverse report with respect to the 88 Madarsas.

Inter alia contending that no action is being taken by the State Madarsa Education Board with regard to the 88 Madarsas in the district in question and the recognition granted to them is not being withdrawn by the Board in accordance to the provisions of Section 7 (2)(b) of the Madarsa Board Act and further that in an illegal manner recognition and grant is being made to the 88 Madarsa, the writ petition has been filed in public interest.

Even though the petitioners claim to be a public spirited person, the public spirited antecedent of the petitioners is not spelt out in the writ petition and the Madarsa Board in the detailed counter affidavit filed has indicated that petitioner is an interested person and has no locus standi to file the writ petition. In spite thereof, considering the fact that serious allegations were made with regard to the 88 Madarsas in the district of Sitamarhi being granted recognition without following the requirement of law and in spite of the report submitted by the District Education Officer, Sitamarhi, we directed the respondents to file their



counter affidavit and accordingly, Respondent Nos. 7, 8 and 9 have filed the counter affidavit and on going through the counter affidavit we find that the only discrepancy that was pointed out in the 88 Madarsas were that the size and specifications of the rooms in which the Madarsas were functioning were not indicated. The Madarsa Board in the reply from Paragraph 9 onwards has indicated that in forwarding the report inadvertently the size of the classrooms were not mentioned but subsequently necessary actions were taken and from Paragraph 11 onwards the communication made between the Madarsa Board, the District Education Officer and the State Government have been indicated and we find that the State Government after taking note of various aspects of the matter have granted recognition to the 88 Madarsas on being satisfied with regard to the requirement. In Paragraphs 9 and 10 it is indicated that verification and N.O.C. were issued with respect to the size of the classroom and thereafter based on the same action has been taken.

Keeping in view the counter affidavit filed by the respondents now, we are not inclined to interfere into the matter in this petition under Article 226 of the Constitution. In case the petitioners feel that any of the 88 Madarsas has been granted



recognition contrary to the law, they may challenge the same individually in accordance with law before an appropriate authority, statutory in nature, who is entitled to take action in the matter. In the public interest litigation based on the averments made in the writ petition we are not inclined to go into the issues in question. The petitioners may make a statutory complaint with regard to the same to the Board and the Board in exercise of its power under Section 7 of the Bihar State Madarsa Education Board Act may proceed to take action in accordance with law. On a complaint being made, the Madarsa Board shall cause an inquiry into the matter, hear all concerned and thereafter pass appropriate orders in accordance with law within a period of six months.

With the aforesaid, we dispose of the writ petition.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	09.03.2018
Transmission Date	

