

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15871 of 2017

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Shiv Prakash Rai, Son of Late Nageshwar Rai, R/o Mohalla- Gali No. 2,
Dobhighat Charitarwan, Buxar, P.S. Buxar, District- Buxar, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. Principal Secretary, Education Department, Government of Bihar, Patna.
3. Secretary Education Department, Government of Bihar Patna.
4. Sri Anand Kishore, son of not known to the petitioner, Chairman Bihar School Examination Board, P.S. Kotwali, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar
Ms. Ritika Rani, Kumari Neha
Mr. Arvind Kumar Sharma
Mr. Vijay Kumar Vinod
For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 14-03-2018

Challenge in this writ petition has been made in public interest to the action of the State Government in not appointing a regular Chairman to the Bihar School Examination Board (hereinafter referred to as 'the Board') and by making ad-hoc appointment permitting respondent no. 4, Commissioner in Patna Division, to officiate as Chairman, inter alia, contending that under Sections 4(1)(2) and 4A of the Bihar School Examination Board Act, 1952, a regular incumbent has to be appointed as Chairman of the Board and there is no justification in continuing with the stop-gap arrangement.



The writ petition has been filed challenging the appointment of the Divisional Commissioner under the statute to the post of the Chairman of the Board. Learned counsel also pointed out that in the year 2017 there has been illegality in permitting the topper to be declared in Secondary School Examination the writ petition has been filed in public interest.

Seeking certiorari for prohibiting respondent no. 4 from carrying the duties of the Chairman referring to the statutory provisions and a judgment of the Supreme Court in the case of *Techi Tagi Tara vs. Rajendra Singh Bhandari & Ors. [2018 (1) PLJR 130]* it has been argued that non-appointment of a regular Chairman in accordance with the statute is illegal and arbitrary act of the State Government and malafide intention in appointment of respondent no. 4 can be the basis of public interest litigation and mandamus, as prayed for.

On the contrary, respondent nos. 2 and 3 have assailed the contention and have filed counter affidavit challenging the locus standi of the petitioner in filing the writ petition and also pointed out that in the Board, before appointment of respondent no. 4 various illegalities have been committed, examinations were not held in time, in the examinations held illegalities were detected and, therefore, after removal of the earlier Chairman the present incumbent was given the



charge of the Chairman of the Board to look into the administration of the Board in addition to his administrative capacity as Commissioner. Promptly after his joining he detected various acts of omission and commission by the previous Chairman and various other officers of the Board violating the statutory provisions. During his tenure as Chairman respondent no. 4 has cancelled the affiliation of 203 educational institutions. Taking further steps for curtailing various administrative action has been taken by him for streamlining the functioning of the Board and in the detailed counter affidavit filed by the respondents from paragraph-8 onwards it has been indicated that the present Chairman has done various works and has overhauled the working of the Board and at this stage it is stated that working of the Board should not be disturbed as far as the appointment of regular Chairman under Section 4 of the Act is concerned it is indicated that the State Government is seized of the matter for filling up the post.

Keeping in view the nature of the dispute that has come before us and considering the counter affidavit in detail filed by the State Government which does show that various steps have been taken by the present incumbent to improve the functioning of the Board while handling the charge as Commissioner, Patna Division, and he has also taken steps as are indicated in the counter affidavit, for the present merely because the said incumbent is holding dual charge,



we are not inclined to interfere into the matter at the instance of the petitioner.

However, we hope that the State Government will take steps immediately and within a reasonable period of time to ensure that the post of Chairman of the Board on regular basis be filled up by an incumbent competent to hold the post.

With the aforesaid observations, the writ petition stands disposed of.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mr1./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	20.03.2018
Transmission Date	

