

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.71 of 2017

In

Civil Writ Jurisdiction Case No.7706 of 2016

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Madarsa Khairul Uloom, Sargatia, through its Secretary, Kalam Ansari, Son of Bulai Ansari, Resident of village- Sargatia, P.S. Gopalpur, District- West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar through Chairman, Bihar State Madarsa Education Board, Patna.
2. The Special Director, Secondary Education Bihar, Patna.
3. The Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
4. The Secretary, Bihar State Madarsa Education Board, Vidyapati Marg, Bihar, Patna.
5. The District Magistrate, West Champaran, Bettiah.
6. The District Education Officer, West Champaran, Bettiah.
7. Islam Ansari, Son of Late Bulari Ansari, resident of Village- Sargatia, P.S.- Gopalpur, District- West Champaran.
8. Managing Committee Masjid Islamia Sargatia, through its Motawalli, Ilmuddin Ansari, Son of late Sahebjan Ansari Resident of Village- Sargatia, P.S. Gopalpur, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Binod Kumar Singh, Advocate
		Ms. Vagisha Pragya Vacaknavi, Advocate
For Respondent No.7	:	Mr. Bimlesh Kumar Pandey, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-04-2018

Having heard learned counsel for the parties we find that with regard to recognizing a Madarsa and directing for taking action, the learned Writ Court has exceeded the jurisdiction available to it under Article 226 of the Constitution, stepped into the shoes of the fact finding authority and based on



the fact that the Madarsa is functioning without fulfilling the requirement of land being available, adjudicated various disputes on fact merely on the basis of the affidavit. This in our considered view should not have been done, particularly when under the Bihar State Madarsa Education Board Ordinance, 1981 the power is vested with the Board constituted under Ordinance No. 7 to grant recognition to Madarsa in accordance with the regulations framed, so also to withdraw the recognition. Once a statutory Board is functional, which could cause a proper inquiry with regard to the dispute on fact, the indulgence made by the Writ Court, in our considered view, was not proper. The effect of the order passed by the Writ Court would be to set aside the recognition granted to the Madarsa way back in the year 1987 which, in our considered view, could only be done by the Board in exercise of the powers conferred upon them under Ordinance No. 7 of the Ordinance of 1981.

Accordingly, we allow this appeal, quash the order passed by the learned Writ Court on 19.12.2016 passed in C.W.J.C. No. 7706 of 2016 and direct that on the parties filing a certified copy of this order along with all relevant documents before the Board constituted under the Ordinance of 1981, the Board shall cause an inquiry with regard to the issue in question



and decide it after hearing all concerned within a period of three months.

With the aforesaid, the appeal stands disposed of. Till the decision is taken by the Board, status quo with regard to the matter, as is existing today, shall be maintained.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	05.04.2018
Transmission Date	

