

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1473 of 2016

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The Managing Committee of the Madarsa Darul Hoda Sikrona, Police Station-
Kadwa, District- Katihar through its Secretary Dr. A Ali, son of Late Reyazuddin,
At- Sikrona, P.S Kadwa, District- Katihar.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Special Director, Secondary Education, Department of Education,
Government of Bihar, Patna.
4. The Joint Director, Secondary Education, Government of Bihar, Patna.
5. The District Education Officer, Katihar, District- Katihar.
6. The Bihar State Madarsa Education Board, Patna through its Secretary.
7. The Chairman, Bihar State Madarsa Education Board, Patna.
8. The Secretary, Bihar State Madarsa Education Board, Patna
SL Nos 6 to 7 are 5 Vidyapati Marg, P.S.- Kotwali, District- Patna.
9. Abdul Qaiyum, son of Late Haji Shariatullah, Village- Sikrona, P.O.- Jhaua,
P.S- Kadwa, District- Katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Nandan Prasad, Advocate
For the Respondent/s : Mr. Dr. Anshuman, SC14
For the Madarsa Board : Mr. Rashid Alam, Advocate
For respondent no.9 : Mr. Durga Nand Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 13-03-2018

Heard learned counsel for the petitioner and
respondents.

Learned counsel appearing on behalf of the petitioner
submits that the order earlier passed by the Joint Director, Secondary
Education, Government of Bihar, who was not authorized to act as
Appellate Authority and he places reliance on the judgment in the
case of the **Managing Committee of Madarsa Darul Hoda Vs. The**



State of Bihar & others, reported in **2017 (4) PLJR 592**.

Mr. Raj Nandan Prasad, learned counsel for the petitioner submits that the issue of competence of appellate authority is now concluded. The Special Secretary has been designated as the appellate authority to hear the appeal against the decision of the Madarsa Board.

In view of the notification of the State Government authorizing Special Secretary to act as appellate authority, liberty shall be available to the petitioner to approach the appellate authority and the appellate authority will decide the appeal in accordance with law and the previous order will not come in the way of the appellate authority in exercising its jurisdiction, as the previous order is nullity in the eye of law in view of the judgment of this Court in the case of the **Managing Committee of Madarsa Darul Hoda** (supra).

So far as the contention of Mr. Durga Nand Jha, learned counsel appearing on behalf of private respondent no. 9 is concerned, the law is well settled that the relation of master and servant comes to an end after superannuation of servant and, as such, if the law otherwise permits action against the superannuated employee, like the provisions of Bihar Pension Rules, which permits action even after superannuation, which enables the Madarsa Board to



take action against a superannuated employee, liberty shall be available to the Managing Committee of the Madarsa Board to take action permissible under the law.

The writ application stands allowed to the extent indicted hereinabove.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.03.2018
Transmission Date	

