

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.864 of 2017

In

Civil Writ Jurisdiction Case No.15541 of 2015

Managing Committee Of Madarsa Basharatia at village & P.O.- Kherma Pathara. Via-Keotiranway, District- Darbhanga through its Secretary Mufti Ezaz Ahmad Quasmi @ Ejaz Ahmad, S/o Dr. Abdul Rajik, resident of Village Kherma Pathara, via- Keotiranway, P.S.- Keoti, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through Secretary Human Resource Department of Bihar, Patna.
2. The Bihar State Madrasa Education Board Vidyaati Marg, P.S.- Kotwali, District- Patna.
3. The Chairman, Bihar State Madrasa Education Board, Patna.
4. The Secretary, Bihar State Madrasa Education Board, Patna.
5. The District Education Officer, Darbhanga.
6. The I.T. Manager Education Department of Bihar, Patna.
7. The Director (High Education) Department New Secretariat Bihar, Patna.
8. The Joint Director (High Education) Education Department of Bihar, Patna.
9. Md. Zahirul Haque, Son of Late Badrul Haque, Resident of Village & P.O.- Hussainpur, P.S. Rahika, District- Madhubani.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shakil Ahmad Khan
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

6 28-06-2018

Heard counsel for the parties.

Keeping in mind that the learned single Judge omitted to take into consideration one of the significant aspect of the matter whether the Joint Director, Higher Education, Government of Bihar, has the requisite authority and power to hear the appeal arising out of such dispute relating to Madarsa constitution, the impugned order dated 01.05.2017 has been



passed by the learned single Judge dismissing the writ application.

Attention of the Court has been drawn to an order by the same Bench passed on 21.08.2017 in C.W.J.C. No. 19290 of 2016, wherein the learned single Judge by a detailed order and consideration has himself held that the necessary power was not vested in the said authority at the relevant time. Therefore, any decision taken by him was a nonest order.

For the reasons above, the impugned order dated 28.05.2015 passed by the Joint Director, Higher Education, Government of Bihar, in Appeal No. 33 of 2014 as well as by the learned single Judge dated 01.05.2017 passed in C.W.J.C. No. 15541 of 2015 stand quashed.

Matter is remanded back to the Special Director, Higher Education, Government of Bihar, for fresh adjudication after giving opportunity of hearing to the parties.

Appeal is allowed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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