

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8258 of 2017**

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1. Bihar Rajya Arya Pratinidhi Sabha, Patna through its President (Pradhan), Sri Ganga Prasad, null having its registered office at Sri Munishwaranand Bhawan, Naya Tola, P.S.- Kadamkuan, Town & District- Patna.
  2. Ganga Prasad, S/o Late Munder Sah, resident of Arya Bhawan, Khajpura, Baily Road, P.S. Shashtri Nagar, Town & District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director (Secondary Education), Education Department, Govt. of Bihar, Patna.
3. The District Education Officer, Patna.
4. Sri Bhai Birendra, S/o Late Rajendra Prasad Rai, resident of Village & P.O.- Mahinava, P.S. Maner, District- Patna.
5. Ramendra Kumar Gupta, son of Late Harish Chandra Prasad, resident of village-Arya Sadan, Bibiganj, Dalwar Road, P.O-Danapur Cantt. P.S.- Danapur, Dist.-Patna (Intervenor-Applicant)

... .. Respondent/s

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**Appearance :**

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|--------------------------|---|-----------------------------------------------------------|
| For the Petitioner/s     | : | Mr. P. K. Shahi, Sr. Adv.<br>Mr. Rajeev Lochan, Adv.      |
| For the Respondent No. 4 | : | Mr. Y. V. Giri, Sr. Adv.<br>Mr. Pranav Kumar, Adv.        |
| For the Respondent No. 5 | : | Mr. Sanjay Singh, Adv.<br>Mr. Chander Shekhar Singh, Adv. |
| For the State            | : | Mrs. Meera Singh, AC to GP-23                             |

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**  
**CAV JUDGMENT**

**Date : 22-06-2018**

This application has been filed under Article 226 of the Constitution of India, purportedly on behalf of Bihar Rajya Arya Pratinidhi Sabha (hereinafter referred to as 'BRAPS'), Patna through its President (*Pradhan*), Sri Ganga Prasad, who is petitioner no. 2, also in this case, seeking quashing of an office



order, communicated vide Memo No. 547 dated 29.05.2017, issued by the Director (Secondary Education), Education Department, Government of Bihar, Patna. By the said office order, which is impugned, an earlier office order, dated 17.02.2016, has been cancelled with immediate effect. By the said letter No. 156 dated 17.02.2016, the then Director (Secondary Education), Bihar, had communicated to all the District Education Officers, that Managing Committees of minority Schools being run under BRAPS, constituted by a Committee headed by Sri Ganga Prasad (petitioner no. 2) of BRAPS, shall only be recognized. The said letter dated 17.02.2016, has been recalled/cancelled by the subsequent impugned order, dated 29.05.2017, purportedly in the light of the observations made by this Court in case of **Anjali Jain vs. State of Bihar** in the decision dated 11.05.2011 (CWJC No. 9560 of 2006) to the effect that in the matters of constitution of Managing Committees, State should not interfere.

2. From rival pleadings on record, it is evident that there is tussle of supremacy between petitioner no. 2 and respondent no. 4, over management of Schools run by BRAPS. Rival pleadings would also show that this case involves seriously



disputed questions of fact, in respect of which, suits are said to be pending in Patna Civil Court and the Delhi High Court. The disputes between the parties are such that they cannot be entertained and adjudicated upon in writ proceedings, on the basis of affidavits of the parties. I would have, for that reason, dismissed the writ application at the very threshold as not maintainable. However, keeping in mind the larger interest of the students pursuing their courses in the Schools run under BRAPS and the nature of controversy over the management of the Schools, I have considered it proper to pass certain directions in respect of management of such Schools, keeping it open for the parties to settle their disputes before the competent Court of civil jurisdiction.

3. The present controversy relates to management of Dayanand Kanya Uchcha Madhyamik Vidyalaya, Meethapur, Patna and one Arya Kanya Uchcha Vidyalaya, Naya Tola, Patna. In course of hearing of the present matter, this Court has been informed that following are 13 Schools which are being run by BRAPS.

1. Arya Kanya Uchcha Madhyamik Vidyalaya,  
Naya Tola, Patna.



2. Dayanand Vidyalaya, Meethapur, Patna  
(Society Adhiniyam Ke Tehat Nibandhit Up-  
Nidhi Ke Madhyam Se Sanchalit).

3. Dayanand Kanya Uchcha Madhyamik  
Vidyalaya, Meethapur, Patna.

4. D. A. V. Inter School, Danapur, Patna.

5. Dayanand Kanya Prathamik Madhyamik  
Vidyalaya, Meethapur, Patna.

6. Arya Kanya Prathamik Vidyalaya, Naya Tola,  
Patna.

7. Dayanand Balak Madhya Vidyalaya,  
Khushrupur, Patna.

8. Dayanand Balika Madhya Vidyalaya,  
Khushrupur, Patna.

9. Dayanand Madhya Vidyalaya, Ekauna,  
Punpun, Patna.

10. Mishri Lal Sah Kanya Uchcha Vidyalaya  
Sahebganj, Chapra.

11. D. A. V. High School, Gopalganj.

12. Arya Kanya Uchcha Vidyalaya Khagariya.

13. Bharati Arya Uchcha Vidyalaya, Jamalpur,  
Munger.

4. Since on the basis of pleadings, materials available on  
record and rival submissions made on behalf of the parties, I



have formed an opinion that educational environment in the above noted institutions is most likely to be adversely affected to serious disadvantage of the students, I consider it apt to refer to certain basic facts which have emerged from the pleadings which are as under :-

(i). Sarvadeshik Arya Pratinidhi Sabha (hereinafter referred to as 'SAPS'), New Delhi, is a society registered under the Societies Registration Act, 1882. The general body of SAPS is formed by the delegates sent by its 21 affiliated Sabhas. BRAPS is one of the affiliated Sabhas of SAPS New Delhi. There is dispute relating to management of SAPS and there are three factions of SAPS. The said factions are as follows:-

*“I. Captain Dev Ratna Arya faction- presently led by Sri Suresh Chandra Agrawal as President (Pradhan) & Sri Prakash Arya as Secretary (Mantri).*

*II. Swami Agnivesh faction – presently led by Swami Aryavesh as President (Pradhan).*

*III. Sri Mithailal faction – Led by Sri Mithailal as President (Pradhan).”*

(ii). All the three factions claim to be the genuine SAPS.



The dispute among the three factions is pending adjudication in a Civil Suit before the High Court of Delhi, registered as CS(OS) No. 1146/2004 (Sarvadeshik Arya Pratinidhi Sabha vs. Kailash Nath Singh Yadav and Ors.). The Delhi High Court, in the said Suit, has appointed three retired Judges as Receivers/Commissioners/Election Officers for election of Managing Committee of SAPS.

(iii). The petitioner claims to be associated with the main faction led by Captain Dev Ratan Arya as a President & Sri Prakash Arya as Secretary. There is a statement in paragraph 8 of the writ application, that after death of Captain Dev Ratan Arya, Sri Baldev Acharya, was elected as President (Pradhan) by the Antarang Sabha and after death of Sri Baldev Acharya, presently Sri Suresh Chandra Agrawal, has been elected as President (Pradhan) of Captain Dev Ratan Arya faction. It is claimed that the petitioner no. 2, was elected as the President of BRAPS, Patna, firstly in 2006, immediately whereafter the another faction of BRAPS, filed Title Suit No. 7 of 2007, impleading petitioner no. 2 as one of the defendants. In the said Suit, learned Sub Judge-VI, Patna, had on 06.05.2000, passed an interim order to the following effect:-



*“It has also been reported that the Committee led by Ganga Prasad is a management of affairs of Arya Kanya Vidyalaya, which is under the BRAPS. On the basis of facts and findings as stated above, the lock of two Atithishala/Dharmashala is ordered to be open and the keys thereof be handed over to the Committee led by Ganga Prasad of BRAPS.” (sic)*

(iv). A petition was filed against the said order dated 06.05.2010, by the plaintiff of the said Title Suit, namely Shyam Kishore Sharma, registered as CWJC No. 9205 of 2010. While dismissing of the said writ application by order, dated 05.11.2012, this Court made following observations :-

*“Prima facie, therefore, order of the Subordinate Judge holding that the present petitioner has no locus as such to assert or claim any right over the affairs of the body or the property is based on the preliminary evidence and materials which are available on record. Keys of the property has been ordered to be handed over to the committee headed by one Ganga Prasad Arya which in the opinion of the Court is only a preliminary arrangement which may not affect the final outcome of the suit. This step was required to be taken because the*



*property is being used by the public at large and is used for public purpose, therefore, its utility and utilization must be sustained.”*

(v). The Court observed in the last paragraph of the said order as follows:-

*“This writ application is dismissed. It will be open to the parties to fight their legal battle in the main suit, if it gets restored.”*

(vi). It can be easily noticed from the said order that the Title Suit being Title Suit No. 7 of 2007, had stood dismissed for default, when the said order dated 05.11.2010, was passed. It is not known, whether the Title Suit has been restored or not. There is no dispute between the parties over these facts as noticed above.

5. The dispute, according to the petitioner's case, in respect of the Constitution of Managing Committee, had arisen in 2012, when one Sanjay Singh, MLC, claimed control over management of the School. He is said to have acted in connivance with the rival faction to which Shyam Kishore



Sharma (petitioner of CWJC No. 9205 of 2010) belonged. In view of the controversy between the two factions, the District Education Officers, Patna, had sought guidelines from the Department of Education, in this regard. Considering the interim order passed in Title Suit No. 7 of 2007, and order dated 05.11.2010, passed in CWJC No. 9205 of 2010, the Director, Secondary Education, through his letter dated 27.12.2012, informed the District Magistrate, Patna, that the said Arya Kanya Uchcha Vidyalaya, Naya Tola, Patna (hereinafter referred to as 'the School') shall be managed by the Managing Committee constituted by petitioner no. 2 as the Pradhan of BRAPS. The order dated 27.12.2012 was challenged by BRAPS, through its Mantri Shyam Kishore Sharma, impleading Ganga Prasad as respondent no. 4, describing him as Pradhan (unrecognized BRAPS). The said writ application was dismissed by this Court, by order, dated 25.07.2013, which runs as under:-

*“In my view, nothing turns upon the  
aforesaid direction as subsequently the matter  
has been looked into at the level of the*



*Government keeping in view the interim order passed by the civil court which has been upheld by this Court.”*

6. It is the case of the petitioner, that reason behind the present controversy lies in the suspension of one Anand Kumar Arya, who was working as the Vice President (Up-Pradhan) of SAPS, led by Captain Dev Ratan Arya faction. An information in respect of his suspension by office order dated 20.09.2014, was duly communicated through office order dated 20.09.2014. It is said that the said Anand Kumar Arya, who in connivance with the dissident group of BRAPS constituted an *ad-hoc* Committee for managing the affairs of BRAPS and through an office order, dated 08.06.2015, he appointed respondent no. 4, Bhai Birendra, an MLA of the Ruling Party as the President of BRAPS, only with a view to grab the property of Arya Samaj, with the aid and assistance of political influence. The said office order has been brought on record by way of Annexure-6/1 to the writ application, which has been issued under the signature of Anand Kumar Arya, describing himself to be the Executive President (*Karyakari Pradhan*) of Captain Dev Ratan



Arya faction of SAPS, New Delhi. It is the case of the petitioner that Anand Kumar Arya was incompetent to constitute an ad-hoc Committee, in view of the fact that he was suspended by Acharya Baldev, *Sabha Pradhan* of Dev Ratan Arya faction of SAPS. It is the petitioner's case that Acharya Baldev, who is the genuine President of the genuine faction namely Captain Dev Ratan Arya faction of SAPS, New Delhi, as recognized petitioner no. 2, has the genuine president of BRAPS. Reliance is being placed on the letters dated 16.06.2015 and 18.08.2015, in this regard.

7. It is also their case that the election of BRAPS, was held in the year 2015, and petitioner no. 2 has again been elected as its President of BRAPS. In view of the subsequent controversy, however, the District Education Officer, Patna, again sought guidelines from the Director, Secondary Education, Government of Bihar, through letter No. 2806 dated 08.09.2015. The Director, Secondary Education, Government of Bihar, through letter dated 17.02.2016, addressed to all the District Magistrates, reiterated that the Managing Committee constituted by Ganga Prasad as *Pradhan* of BRAPS, shall only be recognized for the management of all minority Secondary



Schools, under the control of BRAPS. Four months thereafter, the Education Department, Government, came out with another letter dated 10.06.2016, issued under the signature of the Director Secondary Education, cancelling the earlier letter No. 156 dated 17.02.2016. The subsequent letter dated 10.06.2016, came to be assailed by the petitioners by filing an application under Article 226 of the Constitution of India before this Court, giving rise to CWJC No. 9841 of 2016. Since, this Court found the order, dated 10.06.2016, to be non-speaking, it quashed the order in following terms :-

*“Taking cue from what is going on in Delhi, the fight begins in the State of Bihar as well, since this organization has very diverse kind of interest, especially in the area of education and welfare. Properties are diverse and wide, if not lucrative as well. There are people with hungry eyes, who would like to corner the benefits in one manner or the other. The court, therefore, is concerned not with what is going on for the fight of Supremacy, between the factions, but the immediate fall out of such fights. In the present case educational institutions, namely, Arya Kanya Uchha Madhyamik Vidyalay, Naya Tola and Dayanand Kanya Uchha Vidyalay, Mithapur are suffering.*



*To prevent ugly situation, the Kadam Kuan Police Station locked up certain premises, details of which is evident from the order, dated 06.05.2010, passed in Title Suit No. 7 of 2007 by Sub-Judge-VI, Patna, copy of which is Annexure -2. In between, there were some writ applications also filed, but they are limited in nature.*

*Problem has arisen in the smooth running of the educational institutions, because disbursement of salary etc. of the institutions have been affected and since the funding and financing is also done substantially by the State of Bihar, therefore, the dispute was also brought to the notice of the Director, Secondary Education, Government of Bihar, Patna. The order, dated 17<sup>th</sup> of February, 2016, contained in Annexure-11 was issued. This order is to be read in the context and background under which it has been issued. Merely because one party or the other over-reacts does not mean that the Court will also carried away by such vociferous kind of submission. The effort of the Director, Secondary Education, Government of Bihar, Patna was to ensure smooth running of the institutions and what the Director has done by way of Annexure-11 was to only certify the position, which was indicated in the order of the*



*Sub-Judge, contained in Annexure-2. Let it be clarified for all and for record that this no way is a declaration in favour of “A” or “B”. This is a temporary arrangement keeping the institutions in mind. Since the Director, Secondary Education, Government of Bihar, Patna is not a Civil court or court of competent jurisdiction, therefore, Annexure- 11 cannot be used by any authority or any fractions to declare themselves to be the winner. The legal battle still has to carry on. The Court is informed that the suit was dismissed for default, but a restoration application has been filed. The outcome of the order in the restoration application will decide the fate of the case, but since the fractions at war have correlation even with the parent body, they will also have to hold their horses till a declaration comes from the Delhi High Court with regard to the parent body.”*

8. While dismissing the writ application by order, dated 06.12.2016, this Court made following significant observations :-

*“So far as essence of Annexure-12 is concerned, since it does not give any details as*



*to why it had to be issued, therefore, this order does become vulnerable and subject to challenge, because it does affect some working arrangement, which had been made by the previous Director, Secondary Education, Government of Bihar and some kind of a right was created in favour of the working arrangement based on a judicial order. The non-speaking order, which Annexure-12, is, therefore, cannot be sustained. Annexure-12 is quashed. The State authorities are given freedom to take a fresh decision in accordance with law.*

*Writ application is allowed.”*

9. In the light of the order of this Court dated 06.12.2016, the Director, Secondary Education, Patna, passed speaking order giving reasons for cancelling the letter no. 156 dated 17.02.2016, which is being assailed in the present writ application.

10. This controversy, as alleged in the present writ application, has political overtones too. It is the case of the petitioner that respondent no. 4, who claims to be *Pradhan* of BRAPS, Patna, is an MLA of the Ruling Party of the State as



also '*Sabhapati*' of the '*Nivedan Samiti*' of *Bihar Vidhan Sabha*. In that capacity, he got the present issue raised in the *Nivedan Samiti*, where Senior Officials of the Department of Education, including Director, Secondary Education, were called, who were pressurized to issue the order/direction, impugned in the present case.

11. It is asserted in the supplementary affidavit, filed on behalf of the petitioner, that there was a possibility of disturbance being caused at the instance of respondent no. 4, in the said School and other educational institutions run by BRAPS.

**Case of contesting Respondent No. 4:-**

12. The respondent no. 4, has filed counter affidavit, who also claims to be *Pradhan* of BRAPS, Patna, and associated with the same faction of Captain Dev Ratan Arya as President and Shri Vimal Bhagwan as Secretary. It is his claim that Anand Kumar Arya, is functioning as the working President of SAPS as since Captain Dev Ratan Arya has



suffered 'Paralytic Attack'. He has relied on Annexure-R/1 dated 18.06.2012, which is a letter written by Captain Dev Ratan Arya to support his claim of the appointment of Anand Kumar Arya as the working President of SAPS. Reliance has also been placed on a certificate dated 15.12.2009, of Prakash Arya, Secretary of SAPS.

It may be recorded here that the petitioner in the writ petition has asserted, which has already been noticed, that said Anand Kumar Arya, who was working as the Vice President of SAPS, was suspended, on account of anti-social activities, in the month of September, 2014.

13. The respondent no. 4, asserts that petitioner no. 2, was elected as *Pradhan* of BRAPS, in 2006, whereas one Ramendra Kumar Gupta, was elected as the Secretary in subsequent elections held for 2009-12 and 2012-15. Petitioner no. 2 and said Ramendra Kumar Gupta, were again elected as Pradhan in the election held under the supervision of said Anand Kumar Arya, the working President of SAPS. They were, thus, in the said Committee and jointly used to manage the affairs of the institution run under the BRAPS.



**“Disputes in relation to the School (Arya Kanya  
Higher Secondary School)”:-**

14. In respect of the School, in question, it has been asserted that the dispute arose in the year 2012, regarding the constitution of the Managing Committee. [Shyam Kishore Sharma, who belongs to Agnivesh faction, claims his control over the management of the School run and managed by the Committee headed by respondent no. 4 and managed by the Committee constituted by BRAPS led by respondent no. 4.] The developments thereafter, have already been noticed in the foregoing paragraphs, where initially through a Memo dated 27.12.2012, the managing Committee constituted by BRAPS, led by petitioner no. 2, was recognized by the State Government and with the chain of events thereafter, as has already been noticed, the impugned order, dated 29.05.2017, came to be passed.

15. Contrary to what has been asserted in the writ application in respect of the suspension of Anand Kumar Arya as the working President of SAPS, respondent no. 4 has asserted that Anand Kumar Arya, was duly authorized to act, as such and in that capacity he had, through office order dated



08.06.2015, dissolved the Committee of BRAPS led by petitioner no. 2, due to irregularities committed by him of alleged embezzlement in connivance with acting Principal of the School. It is his assertion that the new *ad-hoc* Committee was, thereafter, constituted by SAPS under the orders of said Anand Kumar Arya with respondent no. 4 as the President and one Sanjay Kumar as the Secretary. He also claims that the constitution of the Committee was *ad-hoc* having a life of six months. Accordingly, a fresh election was conducted in the presence of the representatives of BRAPS including the working President Anand Kumar Arya and the representatives of other factions of SAPS, in which, respondent no. 4, was elected as the President and Ramendra Kumar Gupta, as the Secretary. It is his assertion that the said election was duly recognized by all the factions of SAPS and certificates to the said effect have been issued. The *ad-hoc* Committee, which was constituted by Anand Kumar Arya, constituted the Managing Committee on 8.10.2015, 15.09.2015 and 11.06.2016, for the Schools managed and run by BRAPS. The Committee led by respondent no. 4, constituted the Managing Committee of Arya Kanya Uchcha Vidyalaya, Naya Tola, Patna, through office order issued on 15.09.2015, which is at



page 54 of the counter affidavit. It is the claim of respondent no. 4, that petitioner no. 2, tried to illegally establish his supremacy over the management in respect of the affairs of the School.

**Interventions:-**

16. There are two intervention petitions filed, one on behalf of Ramendra Kumar Gupta, who is claiming to be the Secretary of BRAPS and opposing the claim of petitioner no. 2 as *Pradhan* of BRAPS. He admits that petitioner no. 2, was the *Pradhan* and the intervenor, Secretary of the same Committee of BRAPS up to 08.06.2015. He asserts that the interim order, which was passed in the Title Suit No. 7 of 2007, was in favour of the Committee and not individually in favour of the petitioner no. 2, and his name figured in the order because he was heading as *Pradhan* of the *Sabha*. The intervention application being I.A. No. 4507 of 2017, by the said Ramendra Kumar Gupta, has been allowed by order, dated 10.07.2017.

17. One Satyendra Narayan Singh, claiming to be the Principal-cum-Secretary of the Managing Committee of the School, has filed I.A. No. 4649 of 2017, seeking intervention,



though in support of the petitioner and against the respondent no. 4, asserting that any adjudication may adversely affected his interest and that respondent no. 4, is disturbing the functioning of the School, on the strength of the order, dated 29.05.2017, which is impugned in the writ application. He has asserted that with effect from 02.10.1980, the School was granted the status of a non Government aided minority institution and was functioning within the framework of the respondent's Bye-laws. He claims that in accordance with the terms of the Bye-laws, the Deputy Direction of Secondary Education, had nominated three members of the Managing Committee of the institution, in which Ganga Prasad, was nominated as one of the nominees, in the 2007. In the year 2010, said Ganga Prasad was again elected as the Chairman of the managing Committee of the institution in the capacity of nominee of the Director, Secondary Education. It has further been stated that in the year 2015, Sri Ganga Prasad, became a member of the managing Committee of the institution as donor member. The crux of the case of the said respondent is that Ganga Prasad is validly functioning as the Chairman of the managing Committee of the School and respondent no. 4, is acting in connivance with one Ramendra Kumar Gupta, the intervenor respondent no. 5.



**A reply of the respondent no. 4, to intervention application being I.A. No. 4649 of 2017, filed by Satyendra Narayan Singh.**

18. Respondent no. 4, has disputed the appointment of intervenor Satyendra Narayan Singh, respondent no. 5, as Principal of the School. It is the case of the respondent no. 4, that the Committee headed by respondent no. 4, has appointed another person as Principal Incharge of the said School, whereas this intervenor has been set up by writ petitioner no. 2. The said intervenor has filed a rejoinder to the reply of respondent no. 4, asserting that he has been appointed as the Principal by the managing Committee of the School headed by Ganga Prasad, in its meeting held on 14.12.2016. The minutes of the said meeting has been brought on record by way of Annexure I/14. From the said minutes, it appears, that Ramendra Kumar Gupta (intervenor respondent no. 5) has been shown as a donor member, but it does not bear his signature. It has not been disputed that said Ramendra Kumar Gupta is the Secretary of the managing Committee. The minutes which have been brought on record, narrated the kind of mismanagement in respect of the School in question.

**Discussion**



19. I have narrated in considerable detail, the facts of the case above as asserted by the parties in their rival pleadings including the controversy in respect of which there is no dispute, not for the purpose of adjudication of the disputes *inter-parte*, on merits, rather for appreciating the kind of mismanagement and uncertainty that is prevailing in the educational institutions, run under BRAPS, which is one of the 21 affiliated Sabhas of SAPS. Three factions of SAPS are fighting over their respective supremacy over the SAPS. Both the contesting parties i.e. petitioner no. 2 and respondent no. 4, claim that they belong to Captain Dev Ratan Arya faction. The dispute as to which faction is genuine SAPS, is pending adjudication in a Civil Suit and as has been explained, it is presently pending before an Arbitral Tribunal consisting of three Hon'ble retired High Court Judges. There is yet another dispute which appears to have arisen: whether Anand Kumar Arya, was authorizedly working as the working President of SAPS of Captain Dev Ratan Arya faction and whether he had the authority to nominate respondent no. 4, as *Pradhan* of BRAPS. There are, thus, at least two factions of Captain Dev Ratan Arya faction, one claiming to be led by petitioner no. 2 and other by respondent no. 4. Both of them are asserting their



right to manage the affairs of BRAPS and Schools run under BRAPS. In between the fights of supremacy in respect of management of the Schools, the students pursuing their studies, in the said School must be suffering.

20. Mr. P. K. Shahi, learned senior counsel, appearing on behalf of the petitioner, contends that there was no *bona fide* reason for the Director, Secondary Education, firstly to come up with an abrupt communication dated 10.06.2016, cancelling the earlier departmental letter dated 17.02.2016, whereby recognition was granted to the managing Committee of the School constituted by petitioner no. 2 as *Pradhan* of BRAPS and secondly, to justify the said action by passing the so-called reasoned order, dated 29.05.2017, in purported compliance of this Court's judgment and order, dated 06.12.2016. He contends that the Director, Secondary Education, has merely taken shelter of an observation made by this Court in the case of **Anjali Jain vs. State of Bihar** (supra) in the order, dated 11.05.2011, to extend undue favour to respondent no. 4, under political pressure. Mr. Shahi has submitted that in the background of the clear interim order, dated 06.05.2000, the respondent has no other option but to recognize petitioner no. 2



as *Pradhan* of BRAPS.

21. Mr. Y. V. Giri, learned senior counsel, appearing on behalf of respondent no. 4, has submitted that the case involves seriously disputed questions of fact and is, therefore, not maintainable under Article 226 of the Constitution of India. He has submitted that respondent no. 4 was duly appointed as *Pradhan* of BRAPS by a competent person and he has every right to constitute the managing Committees of the schools run by BRAPS. Countering the contention on behalf of the petitioner on the political affiliations of respondent no. 4, he contends that petitioner no. 2, was in a better position to influence the power that be and that the decision which has been taken in the impugned order is correct, in the light of the Supreme Court's decision in the case of **Anjali Jain** (supra), as was noticed by this Court in the order, dated 11.05.2011. He contends that when the interim order, dated 06.05.2000, was passed, petitioner no. 2 was the *Pradhan* of BRAPS but subsequently, respondent no. 4 has been appointed as *Pradhan* of BRAPS by the working President of SAPS, Sri Anand Kumar Arya and in the changed circumstance the interim order, dated 06.05.2000, passed in Title Suit No. 7 of 2007, is



significant only to the extent that the *Pradhan* of Captain Dev Ratan Arya group of BRAPS will have the authority to manage the affairs of BRAPS in the State of Bihar, including the School in question.

22. Mr. Sanjay Singh, learned counsel representing the intervenor, Satya Narayan Singh, claiming to be the Principal of the School, in question, has supported the case of the petitioner and has contended that respondent no. 4 is causing unnecessary disturbance in the management of the School and the maintenance of peaceful academic environment within the precincts of the School by unnecessary interference. He has submitted that this Court may pass appropriate orders restraining respondent no. 4, from causing undue obstruction in the functioning of the School and for protecting the interest of the institution and the students pursuing education therein.

23. None of the parties, dispute that the questions as to which faction of SAPS is genuine SAPS and which body of BRAPS is genuine body, are such disputed questions which cannot be adjudicated upon in the present proceeding.

24. In the background of the facts narrated and



submissions advanced on behalf of the parties, this Court is left with no other option but to dismiss this writ application granting the parties liberty to ventilate their grievance before a competent Court of civil jurisdiction in the pending proceedings or otherwise. I must not miss to notice the crucial fact that, though, much reliance is being placed on the interim order, passed by the Civil Court at Patna, in case No. 7 of 2007, by the petitioners, the suit had admittedly had stood dismissed for default. There is no clue, whether the Suit has been restored or not. Till restoration of the Suit, the interim order has no significance at all.

25. This Court, however, cannot lose sight of the right of students studying in the Schools run by BRAPS in the State of Bihar. A list of such Schools was furnished by the parties, which has been noticed in paragraph no. 2 of the present judgment and order. The School, in question, including other institutions named in paragraph no. 2 are said to be enjoying minority status. The State Government of Bihar is making available the funds to such institutions for the payment of salaries to the teaching and non-teaching employees of the Schools, as has been argued on behalf of the parties. It is not a



case of management/mismanagement/absence of management of the minority institutions. There is an apparent clash between those who appear to be mighty, over their respective supremacy in respect of management of these institutions. After having noticed this, I am of the considered view that this Court's intervention is essentially required to protect and safeguard the interest of these institutions and the students studying therein to the maximum possible extent by passing appropriate orders and issuing directions. In my view, if it is not done, it will greatly affect the academic environment in the institutions which will be prejudiced and detrimental to the career and well-being of the students, till, either the dispute between the rival groups is decided, or any other order is passed by a Court of competent jurisdiction in this regard.

26. It seems that the School, in question, is affiliated with the Bihar School Examination Board. Bihar School Examination Board (Secondary Education) Affiliation Regulation, 2001, govern the affiliation of the School and other similarly situated Schools run by BRAPS. The Regulations deal with the conditions of affiliation in respect of four categories of Schools within the State of Bihar. The School, in question, and



other similarly situated Schools under BRAPS come within the fourth category as described in Sub-Regulation (1) of Regulation 3, which reads thus :-

***“3. Conditions for Affiliation.-(1) The Board may consider for affiliation of the following categories of schools within the State of Bihar.***

*(i) Government or Government aided schools;*

*(ii) Schools directly governed/managed by Government Departments.*

*(iii) Schools directly managed by Public Sector Undertakings or by reputed societies for Public Sector Undertakings under the financial control of such Public Sector Undertakings or by Societies formed by such Undertakings.*

*(iv) Private, Unaided schools established by a Non government Organisation under the Societies Registration Act, 1860 of the Government of India or under Acts of the State Governments as educational, charitable or religious societies having non-proprietary character or by Trusts.” (emphasis mine)*



27. Regulation 5 of the Regulations reads thus:-

***“5. Society/Trust running the School.-***

*(1) In case of schools belonging to category 3(1)I[iv] there should be a nonproprietary character and its constitution be such that it does not vest control in a single individual or members or a family. The aims of the society/trust should be as laid down under clause 16 of these I[Regulation, 2011].*

*(2) Formation of the Society/Trust should also conform to the rules prescribed in this regard by the State Government.”*

28. Regulation 16 gives emphasis on the critical and key role with the Society/Trust running the School has to play in providing a good and healthy climate to the school to fulfill its aims and objects and to enable the staff to provide quality education and to create a centre for educational excellence. To achieve this aim, the role and responsibilities of the Society/Trust are defined as under:-

*(i) It should ensure that the school gets*



*proper land, building equipment, furniture and qualified staff at least as per norms of the Board.*

*(ii) It shall ensure that the school is run as a community service and not as a business and that commercialization does not take place in the school in any shape whatsoever. (iii) It shall ensure that the funds accruing from the school are spent for the benefit of the school and for its expansion.*

*(iv) It shall safeguard the autonomy of the Principal and provide him total support except when the Principal goes against the established and clear directive laid down by the management.*

*(v) It shall have control over the school management committee and shall approve the budget/ tuition fees and annual charges etc., for the school.*

*(vi) It shall have control over any capital expenditure i.e., on land and the construction of building, its expansion and procurement of major equipments for the school.*

*(vii) It shall generate funds for the needs of the school whether it is recurring or nonrecurring.*



*(viii) It shall ensure that the school has the basic essential facilities such as Laboratory equipment, equipment for games and sports and other co-curricular activities, Library books etc.*

*(ix) It shall have the power to constitute Selection Committee/Departmental Promotion Committee for various categories of staffs.*

*(x) It shall have powers to lay down conditions of service as per norms of Board/Government and to approve promotion/appointment/termination of the employees as well as to grant special increments or rewards to the staff.”*

29. Sub Regulation (2) of Regulation 16 requires the Society/Trust to ensure that the School is running as per the provisions of the Education Act/affiliation norms and shall be committed to provide quality education to children and for this purpose take necessary steps as per the needs.

30. A close reading of Regulation 16 gives the impression that the Regulations attach much importance to provide quality education to the children and the Schools, to be



a center for educational excellence for which the Society/Trust running the Schools are expected to play a crucial role. The kind of row and tiff which is apparently prevailing between/amongst the groups in managing society is found to pollute the academic environment in the Schools and there has to be element of indecisiveness and uncertainty in the affairs of the Schools run by BRAPS, let alone playing the role which the Society was expected to play in accordance with the provisions of the Regulations as noticed. Regulation 17A of the Regulations deals with constitution of the governing body and managing Committee. Whereas one group is claiming to have constituted one set of governing body and appointed someone as Principal of an institution, the other group is claiming to have constituted another set of managing Committee with someone else as the Principal. In such circumstance, for better management of the institutions run by BRAPS, in my opinion, constitution of *ad hoc* managing Committee as contemplated under Regulation 17B of the Regulations for running the Schools has become imperative for the best interest of the institutions, in question. Regulation 17B of the Regulations reads thus:-



***“17B. Ad hoc Managing Committee.- In case of non constitution of society/trust/school managing committee and governing body/managing committee as provided under aforementioned regulations 17 and 17A respectively, the Ad hock committee shall be constituted with the permission of Chairman, Bihar School Examination Board in secondary/senior secondary schools consisting of the following:-***

|       |                                                                                                                                                                                                                                                                  |                  |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| (i)   | Member nominated by Bihar School Examination Board                                                                                                                                                                                                               | Convenor         |
| (ii)  | Head master/principal of secondary school/High secondary school (+2 college)                                                                                                                                                                                     | Member Secretary |
| (iii) | Two teachers (one male and one female, in case of non availability of female teacher, both male teachers). selected by teachers of school/college                                                                                                                | Member           |
| (iv)  | One non-teacher representative elected by non-teachers                                                                                                                                                                                                           | Members          |
| (v)   | Two guardians, (one male, one female) of students reading in the schools/college.<br>(the said guardians shall be of students securing highest marks in 9 <sup>th</sup> and 11 <sup>th</sup> of secondary and senior secondary respectively) within the Region.” |                  |

31. In the facts and circumstances a discussed above, I have considered it expedient in the interest of justice, more



particularly educational requirements of young children studying in the Schools to issue following directions:-

(i). Let Chairman Bihar School Examination Board, constitute managing Committees of the Schools run by BRAPS in the State of Bihar by appointing convenors of the respective Schools, who shall take steps for election/selection of other members as stipulated under Regulation 17B of the Regulations.

(ii). The District Education Officer of the concerned district shall be preferably appointed as the convenor, who shall be responsible for managing the entire affairs of the School and will play the role which the society/trust running the School is required to play, in terms of Regulation 16.

(iii). The senior most teacher in the School will be assigned the job of the Principal of the School, who shall be required to discharge his duties as the head of the School.

(iv). In the peculiar facts and circumstances of the present case, I direct the Bihar School Examination Board, to constitute an *ad hoc* governing body of the Schools under Regulation 17A of the Regulation by nominating Principal of nearest constituent college, as the President of the governing



body and; other members as contemplated under Regulation 17A. Till constitution of the full governing body as contemplated under Regulation 17A, the body consisting of (a) the Principal of nearest constituent college as indicated, (b) the Principal of the respective School (as member Secretary) and one member nominated by the Bihar School Examination Board shall discharge all the functions of the governing body.

(v). I direct specifically that no body or person other than the governing body and the managing Committee constituted under the present order of this Court shall interfere with the functioning of the School.

(vi). The District Education Officer, being senior officer at the district level shall ensure the smooth functioning of the respective schools.

(vii). The District Education Officer acting as the President of the managing Committee of the School and the Principal of nearest constituent college as the President of the governing body shall take all steps to ensure a transparent financial management of the School, in question, and shall ensure maintenance of account of all the proceeds.



(viii). The management of all the Schools shall be under the direct control and over all supervision of a senior officer of the State Government or Bihar Education Project Council to be nominated as Nodal Officer by the Principal Secretary, Education Department, Government of Bihar, who shall be competent to issue necessary guidelines and directions for the smooth functioning and management of the Schools with the sole objective of providing quality education to the children and make the institutions a center for educational excellence.

(ix). The governing body/managing Committee of the institutes shall take prior permission of the Nodal Officer to be nominated by the Principal Secretary, Education Department, Government of Bihar, for any expenditure beyond the sum of Rs. 5,00,000/-.

(x). No appointment against any teaching or non-teaching posts shall be made in the Schools without prior permission of the Nodal Officer.

32. I am constrained to issue the above-noted directions, keeping in mind larger public interest to protect and safeguard the interest of the students studying in the Schools since these institutions were established as a part of a social movement



initiated by an eminent philanthropist of the country.

33. I am of the firm view that unless strict measures are taken, the academic interest of students of these institutions will be adversely affected which will detrimental to their future carrer.

34. This application is disposed of with the aforesaid directions.

35. The Nodal Officer appointed in terms of the directions, as above, shall be at liberty to seek clarification in respect of the present order if any situation so necessitated.

36. List this case under the heading to be mentioned on 04.07.2018 for compliance of the present order.

37. Let this order be communicated to the Chairman Bihar School Examination Board, forthwith.

**(Chakradhari Sharan Singh, J)**

Ashish/-

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