

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8908 of 2018**

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1. The New Managing Committee of The Madarsa Islamia Shamsul Uloom Nichitpur P.O. Jirangachh, P.S. Thakurganj, Distt. Kishanganj through its Secretary Md. Shafiur Rahman.
  2. Umar Farooque son of Ashique Ali resident of village Meerabhita P.O. Kharudah, P.S. Thakurganj, Distt. Kishanganj.
  3. Usman Gani son of Alhaj Alimuddin resident of Chakkarmari, P.O. Jirangachh, P.S. Thakurganj, District - Kishanganj.

... .. Petitioners

Versus

1. The Bihar State Madarsa Education Board, Patna through the Chairman.
2. The Secretary of the Bihar State Madarsa Education Board, Patna.
3. The Joint Director, Human Resources Department, Secondary Education, Kishanganj.
4. The District Education Officer, Kishanganj.
5. The Old Managing Committee, of the Madarsa Shamsul Uloom Nichitpur, P.O. Jirangachh, P.S. Thakurganj, Distt. Kishanganj.
6. The Head Moulvi, the Madarsa Islamia Shamsul Uloom Nichitpur, P.O. Jirangachh, Police Station Thakurganj, District Kishanganj.
7. Md. Mansoor Alam son of Khajmuddin at Hazari P.O. Jirangachh, P.S. Thakurganj, Distt. Kishanganj (Moulvi).
8. Md. Shamim Akhtar son of Md. Kalimuddin at Nichitpur PO Jirangachh, P.S. Thakurganj, Distt. Kishanganj (Hafiz).

... .. Respondents

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**Appearance :**

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| For the Petitioners       | : | Mr. Firoz Ahmad                       |
| For the Respondent State: |   | Mr. Rakesh Narayan Singh, Ac to AAG15 |
| For the Madarsa Board :   |   | Mr. Md. Rashid Alam                   |

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

ORAL ORDER

2      08-08-2018                      The petitioner has put to challenge an order dated 07.09.2017 passed by Dr. Vijay Kumar Pandey as appellate authority under Section 28 of the Bihar State Madarsa Education Board Act. My attention has been drawn to this Court's order, dated 21.08.2017 passed in C.W.J.C. No. 19290 of 2016 (*Managing Committee of Madarsa Darul Hoda Vs. The State of Bihar & Ors.*), to contend that the said Dr. Vijay



Kumar Pandey did not have the authority to act as an appellate authority under the said provision of the Act.

Learned counsel, appearing on behalf of the State respondents and Bihar State Madarsa Education Board, do not dispute this admitted legal position.

In that view of the matter, the impugned order dated 07.09.2017 cannot be sustained and is accordingly set aside.

The Court has been informed that another person has been notified as the appellate authority, who is discharging the duties of the appellate authority. The appeal of the petitioner, Appeal No. 22 of 2016, shall be required to be disposed of afresh by the competent authority under the Act within three months from the date of receipt/production of a copy of this order.

Before I part with the present order, I must take note of the fact that on 21.08.2017, this Court had held the said Dr. Vijay Kumar Pandey to be not the competent appellate authority. Despite the said order dated 21.08.2017, Dr. Vijay Kumar Pandey is said to have passed the impugned order dated 07.09.2017. I would have proceeded against him under the Contempt of Courts Act, however, in the facts and circumstances of the case, I direct the Principal Secretary,



Education Department, Government of Bihar, to look into the conduct of the said Dr.Vijay Kumar Pandey in passing the order as an appellate authority despite clear order of this Court dated 21.08.2017 in case of *Managing Committee of Madarsa Darul Hod Vs. The State of Bihar & Ors.* (supra).

This application stands allowed.

**(Chakradhari Sharan Singh, J)**

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