

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1791 of 2016

In

Civil Writ Jurisdiction Case No.8346 of 2016

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Md. Manzoor Alam aged about 49 years son of Late Md. Zafaruddin Resident of Village - Salimpur, Police Station - Jagdishpur, District - Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Vikas Bhawan, Patna.
2. Special Director, Secondary Education, Bihar, Vikas Bhawan, Patna.
3. The Chairman, Bihar State Madars a Education Board, 5-Vidyapati Marg, Patna.
4. The Secretary, Bihar State Madarsa Education Board, 5-Vidyapati Marg, Patna.
5. District Education Officer, Bhagalpur
6. Head Maulvi of Madarsa Anisul Husna Salimpur, Police Station - Jagdishpur, District - Bhagalpur.
7. Md. Sahabuddin, President of Managing Committee of Madarsa Anisul Husna Salimpur, Police Station - Jagdishpur, District - Bhagalpur
8. Md. Nehar, Secretary of Madarsa Anisul Husna Salimpur, Police Station - Jagdishpur, District - Bhagalpur
9. Nafiz Md. Mukhtar, Member of the said Managing Committee.
10. Md. Rizwan, Member of the said Managing Committee.
11. Maulana Md. Iliyas - Member of the said Managing Committee.
12. Md. Wahhidun Haque - Member of the said Managing Committee.
13. Haji Md. Jalil - Member of the said Managing Committee.
14. Maulana Ibnul Hussan Member of the said Managing Committee.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bankey Bihari Singh, Adv.
For the Respondent No. 8 : Mr. Md. Anisur Rahman, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 19-09-2018

Heard Mr. Bankey Bihari Singh for the appellant and

Mr. Anisur Rahman for respondent no. 8. While the counsel for the

appellant had deleted the names of respondent nos. 6, 9, 11, 12, 13



and 14, the other remaining respondents though served the notice have not chosen to register their appearance.

Be that as it may, the claim of the appellant for being recognized as a donor member has not found favour either by the Madarsa Board or by the Appellate Authority or even before the learned Single Judge giving rise to this appeal. It is feeling aggrieved that the writ petitioner is before this court and when Mr. Singh with reference to the Wakfnama at Annexure-1 of the writ petition, while tries to espouse the right of the appellant-petitioner as a donor member, the position is contested by Mr. Anisur Rahman appearing for respondent No. 8, who claims a legal succession under the same Wakfnama. The dispute as it stands is, who is the successor/legal heir under the Wakfnama.

It is claiming such right that the Constitution of the Managing Committee was questioned before the statutory authorities and negated until the Writ Court. Mr. Rahman informs that the Managing Committee earlier constituted, which was a cause for grievance for the appellant-petitioner has since been dissolved and a new Managing Committee has come into being. He, thus, questions the issue raised by the appellant-petitioner on merits as well as on the futility of the challenge by reason of the dissolution of the earlier Committee.



Having heard learned counsel for the contesting parties we are of the opinion that this appeal lacks merit. Since the very status of the appellant-petitioner as a donor member under the wakf is put to a question and requires resolution by a competent forum, the appellant-writ petitioner needs to espouse his grievance before the appropriate forum so constituted to consider such grievance. Appreciating the legal position, Mr. Singh, learned counsel for the appellant prays for disposal of the appeal to enable the appellant-petitioner to raise his grievance before the appropriate forum.

Permission is accorded.

Appeal is disposed of.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Rajesh/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

