

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4114 of 2018

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The Managing Committee of the Madrasa Hafizul Uloom Pomra P.S. Barsoi, District - Katihar through its Secretary Md. Ilayas son of Maqbul Hussain resident of Village - Pomra Barol Kandhal, P.S. Barsoi, District - Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Special Director Secondary Education, Govt. of Bihar, Patna.
3. The District Magistrate, Katihar, District Katihar.
4. The District Minority Welfare Officer, Katihar, District - Katihar.
5. The District Education Officer, Katihar, District - Katihar.
6. The Bihar State Madarsa Education Board, Patna.
7. The Chairman, Bihar State Madarsa Education Board, Patna.
8. The Secretary, Bihar State Madarsa Education Board, Patna. Respondent Nos. 6 to 8 are 5-Vidyapati Marg, P.S. Kotwali, District Patna.
9. Md. Ajmal Hussain son of Md. Abdul Hussain Resident of Village Pomra P.S. Barsoi, District Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Nandan Prasad
For the Respondent/s	:	Mr. Pramod Kumar Singh, AC to SC-16
For the Madrasa Board	:	Mr. Md. Rashid Alam
For Respondent No.9	:	Mr. Surendra Kumar Singh with Ms. Sudha Chandra

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 23-04-2018

Heard learned counsel for the parties.

2. The petitioner claims that his Managing Committee, upon due enquiry has been approved by the Bihar State Madrasa Education Board (hereinafter referred to as 'the Board') to run the Madrasa, namely Madrasa Hafizul Uloom Pomra. The said Madrasa is getting financial assistance from the State Government.

3. It is the case of the petitioner that final



approval of the Managing Committee was granted by the Board on 15.12.2016. The petitioner is aggrieved by communication, dated 21.09.2017, issued by the Board addressed to the District Magistrate, Katihar for holding an inquiry as to whether new Managing Committee of the Madrasa has support of the local people or not.

4. Assailing the impugned letter, learned counsel for the petitioner has submitted that the decision to hold enquiry has been taken unilaterally on the basis of a representation given by Md. Ajmal Hussain, respondent No.9, who claimed to be the Secretary of the newly constituted Managing Committee. He further submits that the decision to conduct enquiry has been taken by the Chairman of the Board and not by the Full Board. For that reason also, the impugned communication is beyond jurisdiction. He has thirdly submitted that the enquiry, which is going to be conducted is without any notice to the petitioner.

5. A counter affidavit has been filed on behalf of the Board. Referring to the averments made in the counter affidavit, Md. Rashid Alam, learned counsel appearing on behalf of the Board, submits that filing of the present writ



application is misconceived. He contends that there is no decision to unsettle functioning of the Committee of the petitioner which will be certainly given due opportunity to defend himself, if any decision adverse to his interest is to be taken by the Board. He has also submitted that the petitioner has remedy under Section 28 of the Bihar State Madrasa Education Board Act by filing appeal against the impugned order.

6. Mr. Surendra Kumar Singh, learned counsel appearing on behalf of Respondent No.9 has also submitted that this writ application is premature and the direction to hold an enquiry cannot be treated to be beyond jurisdiction inasmuch as no decision adverse to the interest of the petitioner has been taken.

7. I agree with the submissions advanced on behalf of the respondents. By the impugned communication, on the basis of representation of Respondent No.9, a report has been sought as to whether the Respondent No.9 is enjoying support of the local people or not.

8. In view of the clear stand taken on behalf of the Board that the petitioner shall be given due opportunity



of hearing at the relevant point of time, the impugned action does not require any interference.

9. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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