

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2263 of 2016

IN

Civil Writ Jurisdiction Case No. 1207 of 2016

- =====
1. Arya Samaj Maccharhatta Trust, Barh, Patna through its secretary Arjun Prasad, son of Chiraunji Sao, Resident of village - Arya Bhawan, Nilami Gali, PS - Barh, District - Patna.
 2. Ram Pravesh Prasad son of Daroga Rai, Principal cum Secretary, Harihar Sah Balika Ucchya Vidyalaya Barh, PS - Barh, District - Patna.

.... Appellant/s

Versus

1. The State of Bihar through Secretary, Human Resources Department, Government of Bihar, Patna.
2. The Secretary, Bihar School Examination Board, Patna.
3. The District Education Officer, Patna.
4. Panchnand Sharma, son of Late Sukhdeo Sharma, Resident of village Dayachak, PS - Barh, District - Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun Kumar Bhagat, Advocate

For the Respondent/s : Mr. Ashutosh Ranjan Pandey-Aag15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 25-04-2018

Challenge in the present Letters Patent Appeal is to the judgment dated 10.11.2016 passed in Civil Writ Jurisdiction Case No.1207 of 2016 by which the learned writ Court has been pleased to dismiss the writ application taking note of the nature of the contest between the parties however giving liberty to them to contest the matter in any other forum including the Civil Court.

2. It appears on perusal of the writ application that the petitioner moved the learned writ Court for the following reliefs:-

“(i) For issuance of a writ in the nature of Certiorari for quashing the memo no.1668 dated 2.11.2015 by which the approval of managing committee of Harihar Sah Balika Ucchya Vidyalaya, Barh, Vide letter/memo no.1612 dated 25.8.2015 has been cancelled violating the rule of natural justice, further the dismissed Head Master, Panchanand Sharma has been reinstated in the school, such action



of the respondent is without jurisdiction.

(ii) For issuance of a writ in the nature of mandamus commanding the respondent not disturb the functioning of the managing committee of the school in question which has already been dully approved by the Bihar School Examination Committee, Patna.

(iii) For issuance of any other writ/writs, command/commands, order/orders, direction/directions as your lordship may deem fit and proper in the facts and circumstances of the case.”

3. The statements made in the writ application would show that the petitioner is challenging the appointment of private respondent no.4 on the ground that he had been terminated by the managing committee of the school vide resolution dated 25.12.2012, the said resolution was never challenged by the private respondent but he anyhow managed the Secretary of the Bihar School Examination Board and got Letter No.1668 dated 02.11.2015 by which the Bihar School Examination Board cancelled the Letter No.1612 dated 25.08.2015 whereunder a duly constituted Managing Committee was approved by the Bihar School Examination Board in accordance with law. It is contended that by the second part of the impugned order dated 02.11.2015 the terminated Principal, Sri. Panchanand Sharma has been reinstated on the pretext that he was wrongly terminated by the managing committee. The school in question is said to be a minority school and according to the petitioner any decision taken by the managing committee could have been questioned only before the Special Director of Education.

4. From the counter affidavit filed on behalf of respondent no.4, it would appear that he has contested the writ application on several grounds and infact has disputed the decision in the general meeting held after the death of the General Secretary namely Devendra Kumar Sinha. He has brought on record a Notification No.21/13 dated 25.09.2012 issued by Bihar School Examination Board, it is his statement that the trust was founded and the same was registered at the office of the District Registrar, Patna, on 27.07.2013. After formation of the



trust the Chairperson namely, Shanti Brahamchari called for a general meeting, a general meeting was held on 30.07.2013 in which a new managing committee and other office bearers were selected to conduct a managing committee of the school to run smoothly. The Bihar School Examination Board after holding an enquiry through the government agency, namely, NAWARD Consultancy Service, found that the new managing committee of the school was functioning smoothly for better education of the people.

5. The allegation against the petitioner is that he anyhow managed the Board by suppressing real facts, got Letter No.1612 dated 25.08.2015 whereby the petitioner's illegal managing committee was approved by the Board. When these facts were brought to the notice of the Board, an enquiry was held pursuance to the representation of the private respondent and ultimately the Board cancelled the earlier Letter No.1612 dated 25.08.2015.

6. Learned counsel for the writ-petitioners have assailed the impugned judgment of the learned writ Court on the ground that the learned writ Court has not been able to appreciate that a terminated Principal like respondent no.4 cannot be reinstated in the garb of a new managing committee.

7. In our considered opinion, the nature of controversies are such that the learned writ Court has rightly refrained from exercising its jurisdiction under Article 226 of the Constitution of India. These are the disputed questions of facts and an adjudication is required on the fact as to which managing committee is duly constituted and is in accordance with law. A writ Court is not a fact finding court and such issues are required to be adjudicated by adducing adequate evidences by the parties.

8. We find no reason to interfere with the impugned judgment of the learned writ Court. The parties are at liberty to contest the issue either in terms of the provisions, if any, under the relevant statute governing the issue of constitution of the managing committee or before a competent Civil Court as has



been held by the learned writ Court.

9. The Letters Patent Appeal has no merit and is, accordingly,
dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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AFR/NAFR	NAFR
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