

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17132 of 2017

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Dwand Bahadur Singh, aged about 76 years, son of Late Bhikham Singh, resident of Village+ P.O.- Siswa Patna, P.S.- Kesaria, District- East Champaran.

... .. Petitioner/s

Versus

1. Bihar School Examination Board (Senior Seconadary) Through Its Secretary, Buddha Marg, Patna.
2. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
3. The Seceretary, Bihar School Examinatin Board (Senior Secondary), Buddha Marg, Patna.
4. The Director Academic, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
5. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
6. The Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
7. The District Magistrate, East Champaran.
8. The District Education Officer, East Champaran.
9. The Sub- Divisional Officer, Chakia, East Champaran.
10. The Governing Body as well as the Managing Committee constituted by notification dated 15.01.2015 (disputed) of Udai Narayan Sharma, Saryuga Kuwer and Radha Ballabh Prasad Singh College, Siswa Patna, Block- Kalyanpur, District- East Champaran through its Chairman (disputed), namely, Satish Chandra.
11. Satish Chandra @ Satish Chandra Gautam @ Chandan Singh, son of Subhash Prasad Singh, resident of Siswa Patna, Block- Kalyanpur, P.S.- Kesaria, District- East Champaran.
12. Ram Naresh Prasad Singh, son of Late Sitaram Singh, resident of Village+ P.O.- Siswa Kharar, Block- Kalyanpur, P.S.- Kalyanpur, District- East Champaran, Principal (disputed), Udai Narayan Sharma, Saryuga Kuwer and Radha Ballabh Prasad Singh College, Siswa Patna, Block- Kalyanpur, District- East Champaran.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 17633 of 2017

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Udai Narayan Sharma, aged about 73 years, son of Late Ram Narayan Singh, resident of Village- Darmaha, Tola Katharia, P.O.- Darmaha, P.S.- Kesaria, District- East Champaran.

... .. Petitioner/s

Versus

1. Bihar School Examination Board (Senior Seconadary) Through Its Secretary, Buddha Marg, Patna.



2. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
3. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
4. The Director Academic, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
5. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
6. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
7. The District Magistrate, East Champaran.
8. The District Education Officer, East Champaran.
9. The Sub- Divisional Officer, Chakia, East Champaran.
10. The Governing Body as well as the Managing Committee constituted by notification dated 15.01.2015 (disputed) of Udai Narayan Sharma, Saryuga Kuwer and Radha Ballabh Prasad Singh College, Siswa Patna, Block- Kalyanpur, District- East Champaran through its Chairman (disputed), namely, Satish Chandra.
11. Satish Chandra @ Satish Chandra Gautam @ Chandan Singh, son of Subhash Prasad Singh, resident of Siswa Patna, Block- Kalyanpur, P.S.- Kesaria, District- East Champaran.
12. Ram Naresh Prasad Singh, son of Late Sitaram Singh, resident of Village+ P.O.- Siswa Kharar, Block- Kalyanpur, P.S.- Kalyanpur, District- East Champaran, Principal (disputed), Udai Narayan Sharma, Saryuga Kuwer and Radha Ballabh Prasad Singh College, Siswa Patna, Block- Kalyanpur, District- East Champaran.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 17132 of 2017)

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. Smt.Binita Singh -Sc28

(In Civil Writ Jurisdiction Case No. 17633 of 2017)

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. Madhaw Prasad Yadav -Gp23

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 27-09-2018 Heard Mr. Arun Kumar, learned counsel, appearing on behalf of the petitioners, Mr. Gyan Shankar, learned counsel, representing the Bihar School Examination Board and Mr. Tej Bahadur Singh, learned senior counsel, appearing on behalf of respondent nos. 10, 11 and 12.



These applications have been filed *inter alia* for quashing of the order dated 11.09.2017, issued under the signature of the Director (Academic), Bihar School Examination Board, whereby Governing Body as well as Managing Committee of Udai Narayan Sharma, Saryuga Kuwer and Radha Ballabh Prasad Singh College, Siswa, Patna as constituted by letter dated 15.01.2015 have been given recognition.

It transpires from the impugned order dated 11.09.2017, issued under the signature of the Director (Academic) that the decision was purportedly approved by the Bihar School Examination Board. When this matter was taken up on 23.01.2018, the Court had directed Bihar School Examination Board to file a short affidavit as to whether the matter was ever placed before the Bihar School Examination 'Board' within the meaning of Bihar School Examination Board Act, 1952. Affidavit has accordingly been filed on behalf of the Board from which it transpires that the matter was not placed before the Board. The decision impugned, therefore, can not be said to be the decision of the Board, rather, the decision of the Director (Academic) of the Board.

Learned counsel appearing on behalf of the



petitioners has submitted that the impugned order has been passed by an incompetent authority without placing the matter before the Board. He has also argued that the Committee so constituted on 15.01.2015 has introduced someone as Donor Member who could not be treated to be Donor Member of the Committee since he had not made any donation in favour of the School.

Mr. Gyan Shankar, learned counsel appearing on behalf of the Bihar School Examination Board has submitted that term of the Governing Body, which has been recognized by the Bihar School Examination Board by the impugned order, has already expired and steps are being taken for fresh constitution of the Governing Body. He accordingly contends that these writ applications have become infructuous and deserve to be dismissed accordingly.

Mr. Tej Bahadur Singh, learned senior counsel appearing on behalf of the respondents, on the other hand, has submitted that the petitioner has alternative remedy of appeal before the *Bihar Anudanit Sikshan Sansthan Pradhikar* constituted under *Anudanit Shikshan Sansthan Pradhikar Niyamawali, 2015*.

There is no dispute that the impugned decision of the



Board is incompetent having been passed by a person having no jurisdiction to take a decision.

Since the matter was not placed before the Board, the decision cannot be said to be the decision of the Board. The impugned order dated 11.09.2017 (Annexure-1) is accordingly quashed. The said decision shall not be utilized for any purpose by any of the parties.

So far as the question of legality of inclusion of a person as Donor Member is concerned, in my view, since the petitioner has alternative remedy before the Tribunal under the rules, the petitioner shall be at liberty to raise the same in appropriate proceeding, in accordance with law.

These applications stand disposed of.

(Chakradhari Sharan Singh, J)

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