

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14130 of 2017

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Jagdharr Ray Uchhattar Madhyamik Vidyalaya, Bakhari Barari, Rajapakar, Vaishali, through Secretary Wakil Roy, Son of- Shri Ram Ekbal Ray, Resident of Village+ P.O.- Baikunthpur, P.S.- Rajapakar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Education Officer, Vaishali.
5. The Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
7. The Secretary, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh Mr. Ranvijay Singh
For the Respondent/s	:	Mr. Hari Mohan Mishra, AC to GP-27
For the Board	:	Mr. Gyan Shankar Mr. Satyabir Bharti Mr. Alok Chandra

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

9 19-09-2018 This application has been filed seeking direction to the Bihar School Examination Board to consider and grant affiliation in favour of the petitioner, Jagdharr Ray Uchhattar Madhyamik Vidyalaya, Bakhari Barai, Rajapakar, Vaishali, for Intermediate Science, Intermediate Arts and Intermediate Commerce courses from the academic Session 2017-2019.

There are certain facts, which are not at all in dispute, in view of rival pleadings in the writ application and in the



counter affidavit filed on behalf of the Bihar School Examination Board. An application was made by the petitioner for grant of affiliation for the aforesaid courses for the Sessions as indicated above. There is statutory Affiliation Committee contemplated under Section 10B of the Bihar School Examination Board for granting and withdrawing affiliation of secondary and senior secondary schools established by Non-Governmental Organization consisting of:-

(I) Chairman of the Board

(II) A person to be nominated by the Board.

Chairman of the Board is supposed to function as the Chairman of the Affiliation Committee and Secretary of the Board, as Secretary of the Affiliation Committee.

The Bihar School Examination Board has framed regulations namely, Bihar School Examination Board (Senior Secondary) Affiliation Regulations, 2011, Regulation 14 of which deals with submission of application for affiliation and follow up action. In terms of Regulation 14(1) of the Regulations, an application seeking affiliation is to be submitted by the Institution before 30th June of the concerned year. The Board is thereafter required to examine the documents on various conditions and in case, the Board observes that the



school fulfills the essential conditions, an Inspection Committee is required to be appointed in order to assess the suitability of the school for affiliation with the Board for the courses applied for. Sub-Regulation (4) of Regulation 14 states that if, after scrutiny of the application, it is found that the school does not fulfill the minimum conditions, the said opinion shall be placed before the Affiliation Committee for appropriate decision.

This is an admitted fact that the application of the petitioner was placed before the Affiliation Committee and the Affiliation Committee had decided to grant affiliation in favour of the petitioner. Sub-Regulation (8) of Regulation 14 requires communication of the decision of the Affiliation Committee to the school immediately after the approval of the Affiliation Committee. This is to be noted that this is an admitted fact that though the decision of the Affiliation Committee was to grant affiliation, no decision thereof was ever communicated to the school. This is the reason why the petitioner has approached this Court for issuance of direction, as has been noted at the very outset.

The Bihar School Examination Board through its counter affidavit, by way of Annexure-C, has brought on record proceedings of meeting of the Board, held on 29.05.2017. An



inspection report prepared by an Inspection Committee constituted for the purpose of inspection of the school in question has also been brought on record by way of Annexure-B. It is the stand of the Board that a decision was taken to get the school inspected by a team constituted for the said purpose, headed by the District Education Officer and other members. Based on the said inspection report, the Board has arrived at the finding that the school does not fulfill the minimum requirement for grant of affiliation. On perusal of Annexure-C to the counter affidavit filed on behalf of the Board, it appears that the Board has 'approved the letters for cancellation of affiliation'.

It has been submitted by Mr. Sunil Kumar Singh, learned counsel appearing on behalf of the petitioner that the decision of the Board, as reflected in Annexure-C of the counter affidavit, is a mindless exercise inasmuch as there was neither any letter issued for grant of affiliation nor any communication made for cancellation of affiliation and, therefore, there was no reason for the Board to have approved the letters in this regard which did not exist at any point of time. It has also been argued that since the decision to grant affiliation was in favour of the petitioner, it was incumbent upon the Board to have given the petitioner an opportunity to explain, if the Board wanted to take



a different view based on any inspection report.

Mr. Satyabir Bharti, learned counsel appearing on behalf of the Board, has not been able to counter the submission made on behalf of the petitioner to the extent that there was no letter issued for grant of affiliation nor any letter of withdrawal of affiliation and, therefore, there would have been no question of approval of the Board of such letters as indicated in the proceedings of the meeting dated 29.05.2017 (Annexure-C). He has, however, submitted, based on provisions under Section 10B and 10C of the Act that the decision to grant or refuse affiliation can be taken by the Board and the decision of the Affiliation Committee to grant affiliation is not the final word.

The Board's decision to approve the letters as contained in Annexure-C is apparently baseless and unsustainable since admittedly there was no such letter ever issued. The Board is obliged to follow the procedure prescribed under the Act and the Regulations framed therein for grant of affiliation or withdrawal of affiliation. Affiliation Committee constituted for grant of affiliation consists of high officials of the Board and a person nominated by the Board. The Decision of the Affiliation Committee or the Board is to be based on the inspection report submitted before the Affiliation Committee as



contemplated under Regulation 14(3) of the Regulations. It is beyond the scope of the Act or the Regulations to constitute any other Inspection Committee for the purpose of taking decision on the point of grant or withdrawal of affiliation. The report of the Inspection Committee, based on which, the Board's decision has been taken is unknown under the scheme of the Act or the Regulations. Accordingly, while setting aside the decision of the Board, as contained in Annexure-C, I direct the Secretary, Bihar School Examination Board, for getting the recommendation of the Affiliation Committee placed before the Board within the meaning of Section 2(a) of the Act, within two weeks from the date of receipt/production of a copy of this order. The Board shall thereafter take a decision on the basis of only such materials, which can be looked into as stipulated under Regulation 14 of the Regulations. The Board is directed to Act strictly in accordance with Regulation 14 of the Regulations, read with Section 10C of the Act.

This application is accordingly allowed with the directions and observations as above.

(Chakradhari Sharan Singh, J)

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