

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11831 of 2017

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Goverdhan Vidya Mandir, A unit of Shivesh Charitable Trust, Rasulpur, Saran through its Secretary Sri Dinesh Kumar Ojha, Son of Late Shivesh Chandra Ojha.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. Bihar School Examination Board, Patna through its Secretary.
3. Bihar School Examination Board (Senior Division), Patna through its Secretary.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Durga Nand Jha
For the Respondent/s	:	Mr. Madhaw Prasad Yadav -GP-23
For BSEB	:	Mr. Ajay

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

12 31-10-2018

Heard learned counsel for the parties.

2. This writ application was originally filed for commanding the respondents to grant recognition/affiliation in favour of Goverdhan Vidya Mandir School under Chapter-II Rule 3(2) (iii) of the Bihar School Examination Board (Senior Secondary) Affiliation, Regulation, 2011 (hereinafter referred to as ‘the Regulation, 2011’) as modified in 2013. The petitioner claimed that the School fulfilled all the requisite conditions as laid down under Regulation 3(3) of the 2011 Regulations. When the matter was taken up on 03.01.2018, the Court in order to understand why the matter in relation to grant of affiliation



remained pending with the Bihar School Examination Board since 12.02.2016, the original records of the concerned file were directed to be placed. The records were, accordingly, placed on 04.01.2018. On perusal of the records, it appears that the District Education Officer of the concerned District had sent his report through letter dated 13.02.2016 to the Board. The said report was required to be placed before the Affiliation Committee. The Court also found that though the matter had travelled up to the Chairman of the Board, the matter was never placed before the Affiliation Committee as required under Section 10(B) of the Bihar School Examination Board Act, 1952 (hereinafter referred to as 'the Act'). The Court further noticed that there was no movement of file from 27.06.2016. Taking serious note of the affairs, the Court had directed the Chairman of the Board to enquire into the matter as to where and why the file remained pending for such a long period. The Chairman of the Board was directed to submit his report on this count. In compliance of the said order, the Chairman of the Board has submitted his report.

3. Learned counsel appearing on behalf of the Board has submitted that action has been initiated against erring employees of the Bihar School Examination Board.



4. It transpires that the Board has finally rejected the petitioner's application for grant of recognition/affiliation, which has been communicated to the petitioner through letter dated 14.05.2018. The said communication has been challenged by the petitioner by seeking amendment through I.A. No. 4554 of 2018.

5. On reading of the impugned order dated 04.05.2018, it appears that it is the Affiliation Committee in its meeting dated 12.05.2018, has decided to reject the petitioner's application for grant of recognition/affiliation. Meaning thereby that the decision of the Affiliation Committee is being attempted to be assailed in the present proceeding seeking amendment through I.A. No. 4554 of 2018.

6. Section 10(B) (4) of the Act provides for an appeal against the decision of the Affiliation Committee constituted under the said Section before the State Government. Since there is provision of appeal under the Act, the petitioner has alternative statutory remedy.

7. This application is, accordingly, disposed of with a liberty to the petitioner to approach the appellate authority under Section 10(B)(4) of the Act. It is indicated that if the petitioner files his appeal within one month from today, the appellate



authority shall not raise any issue of limitation though the said provision prescribes 30 days time for preferring an appeal before the Principal Secretary, Human Resources Development Department. Since it is not evident as to who has been authorized to take up the appeals under the said provisions, the Principal Secretary shall ensure that the petitioner's appeal is transmitted to the competent authority for disposal.

8. In view of the fact that the matter has remained pending for years together, I direct that the competent authority shall ensure disposal of the appeal within three months from the date of the filing of the appeal.

9. This application stands disposed of.

(Chakradhari Sharan Singh, J)

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