

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18056 of 2018

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The Managing Committee Of the Madrasa Islahul Muslimin Bocha Garhi,
P.S. Bahadurganj, District Kishanganj through its Secretary Manzoor Alam,
Son of Late Maniruddin resident of Village Bishanpur Baisagopalganj, P.S.-
Bahadurganj, District- Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Special Secretary, Secondary Education, Department of Education, Govt. of Bihar, Patna.
4. The Special Director, Secondary Education, Department of Education Govt. of Bihar, Patna.
5. The Joint Director, Secondary Education, Govt. of Bihar, Patna.
6. The District Education Officer, Kishanganj, District Kishanganj.
7. The Bihar State Madrasa Education Board Patna through its Secretary.
8. The Chairman Bihar State Madrasa Education Board, Patna.
9. The Secretary, Bihar State Madrasa Education Board, Patna, No. 7 to 9 are 5- Vidyapati Marg, P.S. Kotwali, District- Patna.
10. Md. Aslam Kamil, Son of Mokimuddin, Ex-Secretary of the Managing Committee of Madrasa Islahul Muslimin (as Stated in a party position in the memo of appeal) R/o Village- Bochagarhi, P.S.- Bochagarhi, District- Kishanganj.

... .. Respondents

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Appearance :

For the Petitioner/s :	Mr. Raj Nandan Prasad
For the Respondent-State:	Mr. Hitesh Suman, AC to SC-13
For the Madrasa Board :	Mr. Md. Rashid Alam
For the Respondent No.10:	Mr. Wasi Ahmad Khan
	Mr. Vikash Kumar Shukla

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 27-09-2018 This application under Article 226 of the Constitution of India has been filed for quashing the order dated 13.08.2018 passed in Appeal No. 6 of 2015 by the Special Secretary (Appellate authority under Bihar State Madrasa Education Board Act), whereby, he has quashed an order of the Madrasa Board dated 30.11.2015.



Facts for the present adjudication are brief. Earlier an order dated 19.09.2016 was passed by the Joint Director (Secondary Education), Dr. Vijay Kumar Pandey, in the aforesaid Appeal No. 06 of 2015, which was assailed before this Court by way of filing writ petition being C.W.J.C. No. 17797 of 2016. This Court, noticing the fact that said Dr. Vijay Kumar Pandey, Joint Director, did not have the authority to function as the appellate authority under Section 28 of the Bihar State Madrasa Education Board, had quashed the said order of the appellate authority by judgment and order dated 14.11.2017. While quashing the order of the Joint Director, the matter was remanded back to the appellate authority to pass an order afresh on the appeal preferred by respondent No. 10. The order impugned has been passed by the appellate authority in purported compliance of this Court's order dated 14.11.2017 passed in C.W.J.C. No. 17797 of 2016 (supra).

Assailing the impugned order, learned counsel appearing on behalf of the petitioner has submitted that the impugned order shows complete non-application of mind inasmuch as the appellate authority has copied verbatim the order earlier passed by Dr. Vijay Kumar Pandey, Joint Director (Secondary Education) on 19.09.2016, which was quashed by



this Court on the ground of lack of competence of the Appellate Authority.

Counter affidavits have been filed on behalf of the respondents, including private respondent no. 10. I have heard Mr. Raj Nandan Prasad, learned counsel appearing on behalf of the petitioner, Mr. Rashid Alam, learned counsel appearing on behalf of the Madrasa Board and Mr. Wasi Ahmed Khan, learned counsel representing respondent no. 10. Learned AC to SC-13 is also in attendance.

I have perused the impugned order passed by the Appellate Authority and the earlier order dated 19.09.2016 passed by Dr. Vijay Kumar Pandey, the Joint Director (Secondary Education). I find substance in the submission made on behalf of the petitioner that there is complete non-application of mind by the Appellate Authority inasmuch as it is evident that the Appellate Authority has just copied the earlier order passed by the Joint Director (Secondary Education). The impugned order is accordingly set aside on the ground that there has been complete non-application of mind by the Appellate Authority.

Before I part with, I must notice that the Bihar State Madrasa Education Board Act has been enacted for constitution



of an autonomous Board for development and better supervision of Madrasa Education in the State of Bihar. Board has been conferred with wide powers and assigned significant duties in the matter of providing instructions and research in Persian and Islamic studies. It has also been given powers to direct, supervise and control Madrasa Education in the State of Bihar. The Board consists of Chairman, Secretary and other office bearers. The Chairman of the Board is supposed to be an educationist. Section 28 of the Act confers upon the Appellate Authority, under the Act, power to entertain appeal against the decision of the Board or the Chairman of the Board. Function of the Appellate Authority under Section 28 of the Act is of immense importance, therefore, which is *quasi-judicial* in nature. The appellate authority exercising powers under Section 28 of the Act is required to act judiciously with full sense and responsibility as an authority exercising *quasi-judicial* powers of the appellate authority. The irresponsible manner, in which the impugned order has been passed, deserves to be deprecated, which I do.

Let this order be communicated to the Chief Secretary of the State of Bihar so as to consider whether such officer should be given any responsibility of acting as *quasi-judicial*



authority in any capacity whatsoever.

This application is allowed with the observations as
above.

(Chakradhari Sharan Singh, J)

Pawan/Ragini

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