

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2929 of 2019

Sanjay Singh Yadav Uchh Madhyamik Vidhyalya and Ors Rafigang, Aurangabad through its President Sanjay singh yadav, aged about 45 years Son of shiv Ratan Singh Resident o Village-S. S. College, Abdulpur, Rafigang, P.S- Rafigang, District- Aurangabad,Bihar

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors Buddha Marg, Patna through its Chairman, Patna
2. The Chairman, Bihar School Examination Board, Patna Bihar
3. The Secretary, Bihar school Examination Board, Patna Bihar

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 590 of 2019

Bhikhar Ray Balika Uchhatar Madhyamik Vidyalay Patepur Vaishali), through the Chairman of the Managing Committee, namely Bhikhar Ray aged about 71 Years, Son of Late Ram Dev Ray, Resident of Village-Basti Khowajpur, P.O.-Pastara, P.S.-Baligaon, District-Vaishali

... .. Petitioner/s

Versus

1. Bihar School Examination Board, Buddha Marg, Patna through its Secretary.
2. The Chairman, Bihar School Examination Board, Buddha Marg, Patna
3. The Secretary, Bihar School Examination Board, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 14974 of 2017

Janardan Uchchtar Madhyamik 2 Vidyalaya S/o Late Janak Choubey, Resident of Village-Banu Chhapar, Deo Nagar, P.O. P.S.-Bettiah, District-West Champaran, Permanent Resident of Village-Sathi Semari, P.O. P.S.-Sathi, District-West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Secondary Education, Govt. of Bihar,Patna. null null
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board



5. The Secretary, the Bihar School Examination Board, Patna.
6. The Chairman, the Bihar School Examination Board, Patna
7. The Affiliation Committee of Bihar School Examination Board, Patna. Constituted Under Rule 3 of the
8. The District Magistrate, West Champaran.
9. The District Education Officer, West Champaran

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16670 of 2017

Ramayan Rajkumar Devdhari Uchchatar Madhyamik Vidyalaya S/o Devdhari Rawat, resident of Mohalla- Panchmandira, P.O. P.S. District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Higher Secondary Education, Govt. of Bihar, Patna.
4. The Bihar School Examination Board, Patna through its Secretary, the Bihar School Examination Board
5. The Secretary, the Bihar School Examination Board, Patna.
6. The Chairman, the Bihar School Examination Board, Patna.
7. The Affiliation Committee of Bihar School Examination Board, Patna Constituted under Rule 3 of the
8. The District Magistrate, Saran at Chapra.
9. The District Education officer, Saran at Chapra.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5052 of 2019

Surendra Narayan Uchh Madhyamik plus 2 Vidhyalaya Narayan Nagar, Kharkhura, Nawada, Gaya through its Secretary, Surendra Kumar age about 50 years, M, S/o Narayan Prasad, R/o Sagarpur, near Ashook High School, Kharkhura, P.s.- Makhadumapur, Distt.- Gaya, Bihar

... .. Petitioner/s

Versus

1. The Bihar School Examination Board Buddha Marg, Patna through its Chairman, Patna
2. The Chairman Bihar School Examination Board, Patna
3. The Secretary Bihar School Examination Board, Patna



... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5665 of 2019

S.M.P. Uchach Madhyamik School Fatehpur, Gaya through its Principal Rakesh Kumar aged about 43 years (M), Son of Mahadeo Prasad, R/o Village-Khiri, P.O. Jethion, P.S. Atari, District Gaya

... .. Petitioner/s

Versus

1. THE BIHAR SCHOOL EXAMINATION BOARD Buddha Marg, Patna through its Chairman, Patna
2. The Chairman Bihar School Examination Board, Patna
3. The Secretary Bihar School Examination Board, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7253 of 2019

Shri Ram Lakhan Singh Yadav Uchh Vidhyalaya, Nardiganj, Pandupa, Nardiganj (Nawada) through its Principal Ram Chandra Prasad aged about 62 years (M), son of Mahaveer Mahto, resident of Village-Parma, P.S.-Parman, District-Nawada.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Buddha Marg, Patna through its Chairman, Patna.
2. The Chairman, Bihar School Examination Board, Patna
3. The Secretary, Bihar School Examination Board, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 7885 of 2019

Bindeshwar Prasad Memorial Sinior Secondary School, Maranchi, Paraiyya, Gaya, through its Teacher Akash Dayal, aged about 26 years (M), Son of Sunil Kumar, Resident of Village and P.O.-Maranchi, P.S-Paraiyya, District-Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Buddha Marg, Patna through its Chairman, Patna.
2. The Chairman, Bihar School Examination Board, Patna



3. The Secretary, Bihar School Examination Board, Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 8590 of 2019

Mahadeo Memorial Uchh Madhyamik Vidhyalya, Bhare, Rajabigha, Fatehpur, Gaya, through its Principal Kamlesh Kumar aged about 30 years (M) Son of Naresh Sharma, Abgila Devi Asthan, Bhare, Buniad Ganj, P.S.- Fatehpur, District- Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Buddha Marg, Patna through its Chairman, Patna.
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 24297 of 2018

B. N. M. D 2 Uchh Madhyamik Vidhyala Lakhisarai through its Persident Rambalak Prasad Singh, Son of Vijaynandan Singh, Resident of Village- Near Pawar House Karayanand Nagar Kautoha, P.O. Kautoha, P.S. Bnadahia, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors Buddha Marg, Patna through its Chairman, Patna
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 455 of 2019

Bindu Singh Kanya Uchhtar Madhyamik 10 2 Vidyalaya Son of Shri Veer Narayan Singh, Resident of Village- Muzaffarpur Malahi, P.O. Hansikewal, P.S.- Bhagwanpur, District- Vaishali.

... .. Petitioner/s

Versus

1. Bihar School Examination Board
2. The Chairman, Bihar School Examination Board, Buddha Marg, Patna.



3. The Secretary, Bihar School Examination Board, Buddha Marg, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 24144 of 2018

Mahamaya Prajapati Gautami Mahila U. M. Vidyalaya Bodh Gaya through its Principal cum Secretary, Dr. Markandey Pandey, S/o Late Ramchandra Pandey, R/o Moh Ambedkar Nagar, Behind Bhojpur Transformer Factory, Police Line Road, P.O. and P.S.- Rampur, District- Gaya

... .. Petitioner/s

Versus

1. The Bihar School Examination Board Buddha Marg, Patna through its Chairman, Patna
2. The Chairman, Bihar School Examination Board, Patna
3. The Secretary, Bihar School Examination Board, Patna

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2929 of 2019)

For the Petitioner/s : Mrs.Shama Sinha, Advocate

For the Respondent/s : Mrs. Namrata Mishra, Advocate

(In Civil Writ Jurisdiction Case No. 590 of 2019)

For the Petitioner/s : Mr.Arun Kumar

For the Respondent/s : Mr.Lalit Kishore

(In Civil Writ Jurisdiction Case No. 14974 of 2017)

For the Petitioner/s : Mr.Shri Prakash Srivastava

For the Respondent/s : Mr.M. Pd. Yadaw-Gp23

(In Civil Writ Jurisdiction Case No. 16670 of 2017)

For the Petitioner/s : Mr.Utsav Kumar

For the Respondent/s : Mr.S.C.Mishra -Sc16

(In Civil Writ Jurisdiction Case No. 5052 of 2019)

For the Petitioner/s : Mr.Shama Sinha

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 5665 of 2019)

For the Petitioner/s : Mrs.Shama Sinha, Advocate

For the Respondent/s : Mr.Satyabir Bharti, Advocate

Mr. Gyan Shankar, Advocate

(In Civil Writ Jurisdiction Case No. 7253 of 2019)

For the Petitioner/s : Mr.Shama Sinha

For the Respondent/s : Mr.Lalit Kiushore

(In Civil Writ Jurisdiction Case No. 7885 of 2019)

For the Petitioner/s : Mr.Shama Sinha, Advocate

For the Respondent/s : Mr.Satyabir Bharti, Advocate

Mr. Gyan Shankar, Advocate

(In Civil Writ Jurisdiction Case No. 8590 of 2019)

For the Petitioner/s : Mr.Shama Sinha

For the Respondent/s : Mr.Lalit Kishore

(In Civil Writ Jurisdiction Case No. 24297 of 2018)

For the Petitioner/s : Mr.Shama Sinha



For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 455 of 2019)
For the Petitioner/s : Mr.Arun Kumar
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 24144 of 2018)
For the Petitioner/s : Mr.Shama Sinha, Advocate
For the Respondent/s : Mr.Lalit Kishore

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 12-07-2019 Heard learned counsel for the petitioners and the
learned counsel for the Bihar School Examination Board.

2. Mrs. Shama Sinha, learned Senior Counsel
appearing on behalf of the petitioners would submit that this
Court has occasion to decide the same issue in C.W.J.C. No.
5933 of 2019 and vide order dated 25.6.2018 the Court has
allowed the writ application. The Court thereafter decided
another batch of writ applications on 28.6.2019 in CWJC No.
1965 of 2019 and analogous cases in the following terms:-

“Heard learned counsel for the petitioner and the
learned counsel for the Bihar School Examination
Board.

Mr. P.K.Shahi, learned senior counsel appearing on
behalf of the petitioner would submit that this
Court has occasion to decide the same issue in
CWJC No. 5933 of 2019 and vide order dated
25.06.2019 the Court has allowed the writ
application”

3. Mr. Satyabir Bharti, learned counsel appearing on
behalf of the Bihar School Examination Board submits that



certain legal aspect of the matter was not considered by this Court while deciding the C.W.J.C. No. 5922 of 2019.

4. Mr. Satyabir Bharti has raised submission that these institutions were not validly granted affiliation in terms of Sections 10© of the Bihar School Examination Board Act which confers power of the Board to grant affiliation.

5. Second contention of Mr. Bharti is that Section 15(4) is attracted only in case where institution has been granted valid affiliation which fulfills all the condition under Regulation 15(4).

6. Mr. Satyabir Bharti next contended that these institutions are bogus institutions and do not fulfill the condition for grant of valid affiliation and therefore, there is no obligation to follow the procedure prescribed under Regulation 15(4). The submission of Bharti is totally misconceived for the reason (a) that the authorities after application of mind and exercising power under the Act has granted affiliation. Now they are stopped from raising the issue that they were not granted affiliation validly. enquiry is only permissible if the affiliation was granted validly under 15(4). Submission and suggestion that affiliation was not granted validly is absurd and has to be rejected. (b) The submission that the institution does not fulfill



the criteria for grant of affiliation this submission also suffers from same fallacy as procedural requirement under regulation 15(4) is to provide procedural safeguard and it has been held out by the Larger bench of the Apex Court in Meneka Gandhi case that procedural requirement is sine qua non in the decision making process, starting from the judgment of the Apex Court in the case of E.P. Royappa reported in AIR 1974 SC 444 the Apex Court is consistently maintaining the stand that arbitrariness and equality are sworn enemy. The Court always condemn decision in breach of procedural safeguard and quashed such decision as arbitrary decision.

7. Considering the aforesaid, the Court does not find any merit in the submission of Mr. Bharti and the same is accordingly rejected.

8. Since this Court has already applied mind to the facts and circumstances of the case and the requirement and procedure referring to the judgment of Chancery Court in the case of Taylor Vs. Taylor, (1875) 1 Ch. D. 426, the Court has no option but to allow the writ application in the same terms of writ application i.e. C.W.J.C. No. 5922 of 2014 was disposed of.

9. Mr. Bharti as last limbs of argument has raised the issue of lack of fulfillment condition for affiliation by the



petitioners institutions. The aforesaid submission is also absurd submission for the reason that all the terms and condition prescribed for taking decision as to grant of affiliation was presumed to be followed before grating affiliation simply because there is change in the gard, initial grant of affiliation cannot be disputed as bad without compliance of natural justice.

10. Now the new Chairman cannot claims to be wiser than the previous Chairman and the previous Board which granted affiliation. The affiliation granted earlier was based on appreciation of fact which cannot be questioned without following the procedural requirement under regulation for cancellation.

11. Annexure-1 is quashed and writ petitions are allowed and the effect of allowing the writ petitions must follow with immediate effect.

(Anil Kumar Upadhyay, J)

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