

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5922 of 2019

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Mano Mathura Uchh Madhyamik Vidhyalya Malichak, Warisaliganj, Nawada
through its President Dr. Ramanuj Prasad, Son of Kamta Prasad Singh, R/o
Village- Malichak, P.O. and P.S.- Warisaliganj, 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

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Appearance :

For the Petitioner/s : Ms. Shama Sinha
For the Respondent/s : Mr. Sunil Kumar Mandal

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 25-06-2019 Heard learned counsel for the petitioner and the
respondents.

2. The only issue required adjudication in the present
case is whether the respondents can dispense with the service of
petitioner without giving notice under Section 15(4) of the
Regulation, 2011 or not.

3. The petitioner has placed reliance on the
requirement under 15(4) of the Regulation, 2011.

4. In the counter affidavit, the respondents have stated
that the requirement of 15(4) of the Regulation is only available
to safeguard the institution, who fulfills the condition for grant
of affiliation under the Regulation. In other words, there is no



dispute that the procedural requirement in terms of 15(4) of the Regulation has not been followed by the respondents before taking decision withdrawing the affiliation granted to the petitioner institution under 2011 Regulation.

5. The relevant part of para 39 of the counter affidavit is quoted herein below:

“39. That the provisions contained under Regulation 15(4) of the Affiliation Regulation, 2011, can be invoked only in case of such institutions which initially upon fulfilling the minimum requirement for grant of affiliation had been granted affiliation by the Board and thereafter due to some reason the institution was unable to maintain the minimum standard. In the present case, the said institution firstly did not have any affiliation by the order of the Board in terms of Section 10C of the Act and secondly, the institution did not fulfill the minimum criteria for grant of affiliation. Therefore, the provisions contained under Regulation 15(4) cannot be invoked in the aid of the petitioner.”

6. From the aforesaid, it is evident that the procedure safeguarding the institution under 15(4) of the Regulation was not followed by the respondents while taking decision adverse to the petitioner institution. The law in this regard is well settled



that no order visiting evil or civil consequence can be made without compliance of natural justice, particularly, when the Regulation itself provide definite procedure to be followed in the matter of withdrawal or revocation of affiliation then the respondents are under obligation to strictly adhere to the procedure.

7. It is now well settled by catena of judgments that when the procedure is prescribed for taking decision then the decision has to be taken in the manner prescribed, any other mode of performance is forbidden by necessary implication. The decision in this regard was made by the Chancery in the case of *Taylor v. Taylor*, (1875) 1 Ch. D. 426.

8. Since the respondents have not followed their own procedure in the matter of withdrawal of affiliation, the order withdrawing affiliation vide Annexure-1 cannot sustain. It is, accordingly, quashed.

9. Accordingly, the writ application is allowed and disposed of.

(Anil Kumar Upadhyay, J)

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