

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7040 of 2005

Sadhanashram Seva Samsad, a duly registered Society having its registered office at 210/6, Bidhan Sarani, Kolkata – 700 006, through its Secretary, Sri Premomoy Das, S/o Sri Provat Chandra Das, resident of P - 288, C.I.T. Road, Scheme IV M, Phoolbagan, P.S. Phoolbagan, Town and District Kolkata.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner -cum- Secretary, Department of Secondary Education, Government of Bihar, New Secretariat, Patna
2. The Director, Department of Secondary Education, Govt. of Bihar, New Secretariat, Patna.
3. The Secretary, Vidyalaya Seva Board, now the Secretary, Subordinate Service Commission, Veterinary College, Patna - 14
4. Sri Sumanta Niyogi Son of Late Jyotish Chandra Niyogi resident of 13B, Rajendra Nagar, P.S. Kadamkuan, Town and District - Patna.
5. Smt. Ruby Rani Sinha wife of Sri Pradeep Kr. Verma (Bariyal) resident of B.M. Das Road, P.S. Pirbahore, Town and District - Patna.
6. Smt. Ruma Dutta Wife of Sri K.N. Bhattacharya resident of Nayatola, Tarkeshwari Market, P.S. Kadamkuan, Town and District - Patna.
7. Sri Yogendra Kumar son of Sri Akshya Lal resident of Dharhara Kothi, Kajipur, P.S. Kadamkuan, Town and District Patna.
8. Sanjay Sinha, Present Secretary of the Managing Committee of Ram Mohan Roy Seminary, Khazanchi Road. Resident of Nikhat Villa, Justice S.M.M. Alam Lane, Pethiya Bazar, Phulwarisharif, Patna.

... .. Respondent/s

For the Petitioner/s	:	Mr Md Aslam Ansari, Advocate
For the State	:	Mr Yogendra Pd Sinha, AAG VII
		Mr Rajeev Kr Sinha, AC to AAG VII
For respondent No 8	:	Mr Sanjay Sinha (In person)
		Mr Avinash Chandra, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 19-07-2019

Heard Mr Sanjay Sinha (respondent No 8, in person),
learned counsel for the petitioner as well as the respondents.

2 Submissions were primarily advanced by Mr Sanjay Sinha appearing in person.



3 The case, in brief, is that three persons were recommended for appointment as Teachers. The Secretary of the Vidyalaya Seva Board, now the Subordinate Service Commission, approved their appointment by Letter dated 07.08.2004. The appointment of respondents No 5, 6 and 7, which has been approved by the said communication, is assailed in the instant proceedings. Respondent No 8 as well as learned counsel for the petitioner submits that there is an ad interim order of City Civil Court of Kolkata dated 15.01.2002 in Title suit No 2016 of 2001 between Sadhana Ashram Seva Samsad & Ors -Versus- Jyotirmoy Halder & Ors. Petitioners who claim to be actual Governing Body of the School in question, are plaintiffs in the said suit wherein on 05.01.2002, certain interim orders were passed in their favour. The order, under Order 39 Rules 1 and 2 imposed ad interim injunction so as to maintain status quo in relation to the management and functioning of the plaintiffs as it was before 11.11.2001 till disposal of the suit. It is submitted that in light of the said order, respondents No 5, 6 and 7 could not have been recommended for appointment by respondent No 4 as in terms of the order of the City Civil Court at Kolkata, the order of status quo was operating against respondent No 4. The appointment was recommended by respondent No 4, against whom there was an



interim order of the competent Civil Court and, therefore, the order of the respondent-State authorities in approving the appointment recommended by respondent No 4 is fit to be quashed.

4 The rights claimed by the petitioner directly arises out of the order dated 15.01.2002 passed in the Civil Suit. What has transpired in the proceedings thereafter, what is the position till date is not before this Court. Apart from that since the petitioner has claimed the recommendation of respondent No 4 to be in contravention of the order dated 15.01.2002 passed in the City Civil Court, Kolkata, he would have to seek his remedies before the City Civil Court, Kolkata.

5 In the circumstances, counsel appearing for the petitioner as well as respondent No 8 pray that they may be allowed liberty to avail of their civil remedies before the Court of competent jurisdiction having regard to the aforesaid facts.

6 Writ petition is disposed of with liberty, as prayed for.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.07.2019
Transmission Date	NA

