

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.670 of 2016

In

Civil Writ Jurisdiction Case No.12636 of 2015

Umesh Chander Singh @ Vijay Kumar Singh son of Brijkishore Singh,
Resident of Mohalla- Bhawanipur, P.S- Chatauni, District East Champaran at
present Working as Secretary of Anugrah Narayan Singh College, Motihari,
District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Human Resource, Govt. of Bihar,
New Secretariat, Patna.
3. The Director, Secondary Education, Govt. of Bihar, New Secretariat, Patna.
4. The Bihar School Examination Board, Patna through its Secretary.
5. The Chairman, Bihar School Examination Board, Patna.
6. The Secretary, Bihar School Examination Board, Patna.
7. The Joint Secretary, (College Establishment) Bihar School Examination
Board, Patna.
8. The Director (Teaching), Bihar School Examination Board, Patna.
9. The Deputy Director, (College Establishment) Bihar School Examination
Board, Patna.
10. The District Education Officer, East Champaran.
11. The Principal, Anugrah Narayan Singh College, Motihari, District- East
Champaran.
12. Harendra Kumar Singh Son of Sakaldeo Singh, Resident of Mohalla
Chandmari, P.S.- Motihari Town, District- East Champaran at present
working as Secretary of Anugrah Narayan Singh College, Motihari, District-
East Champaran.
13. Rakesh Kumar Singh, Son of Ramrati Singh, Principal, Anugrah Narayan
Singh College, Motihari, District- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Md. Anis Akhtar, Advocate
For the Respondent/s	:	Mr. Ranjit Sinha, Advocate
		Mr. Prakash Shrivastava, Advocate
		Mr. Amarendra Nath Verma, Advocate
		Mr. Prashant Pratap, GP-2

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT



(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 17-09-2019

Heard the learned counsel for the appellant and the learned counsel for the respondents.

2. In this case, grievance has been raised by the appellant against the Office Order issued by the Bihar School Examination Board, vide letter No.-BSEB(SS)Coll-Estab/7342 dated 20.03.2015, by which the private respondent no. 12 has been made the Secretary of the Managing Committee along with Rakesh Kumar Singh to be the Incharge Principal of Sri Anugrah Narayan Singh College.

3. Dispute between the present appellant and Harendra Kumar Singh (respondent no. 12) exists for a long period as to who will take control the management of the said college, for that Harendra Kumar Singh approached this Court in C.W.J.C. No.11616 of 2012 for declaration in his favour to be Secretary of the Managing Committee of college, but this Court instead of giving any relief, dealt with matrix of area of dispute in paragraphs 6 and 7 in the order, had directed that it is a disputed question of fact, so proper forum will be the civil suit and whoever wants to establish his right to declare themselves as Secretary and Principal In-charge of the said college, they must file a civil suit for such relief.



4. In pursuance of the said observation, Harendra Kumar Singh filed Title Suit No.532 of 2013. He has made a prayer to pass a decree in his favour to declare him as Secretary of legally constituted Managing Committee of the said college. The present appellant appeared and vide Annexure-6 filed written statement, disputing the claim of the private respondent no. 12. While the suit was pending, Bihar School Examination Board vide Memo. No.BSEB(SS)Coll-Estab/6153 dated 27.06.2014 (Annexure-8) constituted an Ad-hoc Managing Committee comprising Dr. M.A.Haque and Rakesh Kumar Singh as member of the said committee including other members connected with the said college. Whereafter, during the pendency of the suit, Bihar School Examination Board, issued Office Order no. 7342 dated 20.03.2015, whereby a full fledged Managing Committee was constituted wherein Harendra Kumar Singh has been made as a Secretary along with Rakesh Kumar Singh as Principal Incharge of the said College. Against that, a representation was filed by the appellant, vide his application dated 15.05.2015 bringing to notice about the pendency of the suit and also provided details of the cases pertaining to the constitution of the Managing Committee. After impugned order dated 20.03.2015, respondent no. 12 filed an application before the Trial Court for withdrawal of the suit and in



pursuance thereof, the Presiding Officer passed the order dated 30.04.2015 in Title Suit No. 532 of 2013 (Annexure-12) whereby allowed the prayer of respondent no. 12. Accordingly the suit was dismissed as withdrawn with a cost of Rs.1,000/-.

5. The learned counsel for the appellant submits that while civil suit was pending, the Bihar School Examination Board ought not to have issued the Office Order, whereby a full fledged Managing Committee has been constituted rather should have waited for the result of the title suit and only thereafter, they could have taken a proper steps in terms of the decree and judgment passed in the said suit, but instead of awaiting for result, hurriedly the Bihar School Examination Board constituted a full fledged Managing Committee illegally, whereby respondent no. 12 has been made as Secretary of the said college.

6. The learned counsel for the respondents disputed the claim of the appellant and submitted that mere pendency of suit cannot be treated as hurdle in passing the order in favour of respondent no. 12, whereafter, rightly, step was taken whereby suit was withdrawn.

7. From the record it appears that a serious dispute is existing in between the present appellant and respondent no. 12 with regard to holding the control of the Managing Committee of



the said college in getting appointment as Secretary, Managing Committee and earlier this Court in C.W.J.C. No.11616 of 2012 has given liberty to all the parties in the manner, whoever wants to establish his right to get declaration for rightful claim of Secretary of the Managing Committee, could have approached the civil court for proper judgment and decree. Now in this situation, when the order has been passed in favour of respondent no. 12, as has been informed to this Court, two forums are available to him for challenging the order, either before the Tribunal constituted under the Bihar State School Teachers and Employees Disputes Redressal Rules, 2015 or could file civil suit before Civil Court, competent jurisdiction.

8. With the above observation and direction, this appeal is disposed of.

(Shivaji Pandey, J)

(Partha Sarthy, J)

Mahesh/-

AFR/NAFR	NAFR
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