

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1337 of 2018

In
Civil Writ Jurisdiction Case No.746 of 2015

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1. Shakeel Ahmad Son of Mofizurrahman, Resident of Village- Baniyatoli, P.O.- Bhelaganj, P.S.- Balia Belone, District- Katihar.
 2. Shamshul Araffin, Son of Md. Raisuddin, Resident of Village- Bhadarpur, P.O.- Bhelaganj, P.S.- Balia Belone, District- Katihar.
 3. Md. Shakil Ahmad, Son of Wakiluddin, Resident of Village- Dilshadpur, P.O.- Bhelaganj, P.S.- Balia Belone, District- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Human Resources Development Department, Bihar, patna
2. The Special Director, Secondary Education, Human Resources Development Department, Bihar, Patna.
3. The District Education Officer, Katihar.
4. The Block Education Officer, Barsoi, District Katihar.
5. The Bihar State Madarsa Education Board through its Secretary, 5, Vidyapati Marg, Patna.
6. The Chairman, Bihar State Madarsa Education Board, 5, Vidyapati Marg, Patna.
7. The Secretary, Bihar State Madarsa Education Board, 5, Vidyapati Marg, Patna.
8. Md. Raisuddin S/o Haji Samsuddin Resident of Village Bahadurpur, P.O. Bhelaganj, P.S. Kadwa, District Katihar.
9. Md. Anjarul Islam S/o Ishaque Alam Resident of Village Basatpur, P.O. Sudhani, P.S. Barsoi, District Katihar.
10. Md. Habibur Rahman S/o Md. Nezamuddin Resident of Village Bahadurpur, P.O. Bhelaganj, Via Barsoi Ghat, P.S. Kadwa, District Katihar, Secretary of the Managing Committee of Madarsa Wahiddia Nazamia Shamshulooloom at Bahadurpur, District Katihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Md. Ziaul Quamar, Advocate Mr. Md. Anis Akhtar, Advocate Mr. Md. Manzer Karim, Advocate
For the State	:	Mr. Ashutosh Ranjan Pandey, AAG-15
For the Madarsa Board	:	Mr. Md. Aslam Ansari, Advocate
For Respondent No. 10	:	Mr. Raj Nandan Prasad, Advocate



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 28-02-2019

Heard Md. Ziaul Quamar, learned counsel for the appellants and Shri Ashutosh Ranjan Pandey for the State of Bihar, who has filed an affidavit bringing on record report of the District Education Officer dated 17th of January, 2019. We have also heard Md. Aslam Ansari, learned counsel for the Madarsa Board as well as Shri Raj Nandan Prasad for the Respondent No. 10 writ-petitioner.

The dispute is between the staff members of a Madarsa claiming salary as well as about the valid constitution of the committee of management running the Madarsa. We had passed the following order on 27th of November, 2018:-

“Re.I.A. No. 7253 of 2018

Heard Mr. Md. Anis Akhter, learned counsel for the appellants, Mr. Md. Rashid Alam, learned counsel for the Madarsa Board and Shri Ashutosh Ranjan Pandey, learned A.A.G.-15 for the State.

There is a reported delay in filing of this appeal.

Having considered the submissions raised, we find that sufficient cause has been



shown to condone the delay. The condonation application is allowed and the appeal shall be treated to be within time.

Re. I.A. No. 7254 of 2018

The applicants claim themselves to be the Teachers of the Madarsa and had been extended the benefit of the affiliation granted by the Board and were also receiving salary.

It is urged that the writ petition was filed by an individual, who had absolutely no locus in the matter to question the process of the affiliation, particularly with regard to the submission of the reports through the Basic Education Officer. The writ petition came to be filed in the year 2015, much after the Madarsa has already been brought within the fold of affiliation and benefits have already been extended to the employees, including the appellants. The petition does not array the affected parties, including the appellants and it does not even array the management of the Madarsa.

In the above circumstances, the appellants are seriously prejudiced on account of passing of the impugned judgment dated 2nd July, 2018, that adversely affects the rights of the appellants to receive salary and continue in the Madarsa and therefore they are proper and necessary parties and are aggrieved by the impugned judgment.

It is in this background that they seek



leave to appeal. We find substance in the argument of the learned counsel for the applicants and, therefore, the application is allowed.

We grant leave to appeal to the appellants to pursue the appeal.

Re. I.A. No. 7255 of 2018

Issue notice on this stay petition as well as on the appeal to respondent No. 8, 9 and 10 under both modes, i.e. under ordinary process as well as under registered cover with A/D, for which requisites etc. must be filed within a week, making it returnable at an early date.

List after three weeks.”

In response thereto, and pursuant to our order dated 15th February, 2019, the affidavit has been filed, as indicated above, along with a copy of the Inquiry Report by the District Education Officer which has been dispatched to the Madarsa Board for its consideration.

It is now for the Board to take a decision in the matter. Accordingly, we dispose of this appeal with a direction to the Madarsa Board to now conclude the proceedings keeping in view the report already tendered and after giving an opportunity of hearing to the concerned parties within a period of three months from the date of production of certified copy of this order.



The Letters Patent Appeal stands disposed of
accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

AFR/NAFR	
CAV DATE	
Uploading Date	01.03.2019
Transmission Date	

