

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14061 of 2019

1. Md. Akbar Alam, Son of Late Abdul Haleem R/o Village-Dhatta, P.O.-Gowal Toli, P.S.-Barsoi, District-Katihar, Presently posted as Assistant Teacher in the Madarsa Islamia Fasilul Uloom, Mirzadpur, Dangol, P.S.-Balrampur, District- Katihar
2. Md. Shaukat Hussain, S/o Late Moinuddin R/o Village- Dangol, P.S.-Balrampur, Via- Barsoighat, District- Katihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Director, Secondary Education, Education Department, Govt. of Bihar, Patna
2. The Bihar State Madarsa Education Board through its Chairman, Vidypati Marg, P.S.-Kotwali, District-Patna
3. The Secretary, Bihar State Madarsa Education Board, Vidyapati Marg, P.S.-Kotwali, District-Patna
4. The District Education Officer, Katihar
5. The Block Education Officer, Balrampur Block, District-Katihar
6. Md. Salimuddin S/o Late Serajuddin R/o Village-Dangol, P.O.-Dongal, P.S.-Balrampur, District-Katihar. The Secretary of Managing Committee of Madarsa Islamia Fasilul Ulon Mirzadpur, Dangol, P.S. Balrampur, District-Katihar
7. Shah Alam, S/o Md. Maqbool Hussain R/o Village- Mirzadpur, P.O.-Dongal, P.S.- Balrampur, District- Katihar
8. The Joint Secretary, Education Department, Government of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Helal Ahmad
For the Respondent/s	:	Mr. Prabhat Ranjan Singh, AC to AAG-15
For the Madarsa Board	:	Mr. Shri Prakash Srivastava
		Mr. Shahzad Hussain
For Respondent no.7		Mr. Raj N.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 15-07-2019 Heard learned counsel for the petitioners, State,
Madarsa Board and respondent no.7.

The petitioners have filed the present writ application against the order passed by the respondent no.8 dated



18.04.2019 in Appeal No. 29 of 2014.

The appellant (respondent no.7 herein) preferred appeal against the decision of the Madarsa Board granting approval of the services of the petitioners herein.

Counsel representing the petitioners (respondents in appeal) appeared and thereafter absented. In absence of the counsel for respondent no.6 and 7 in appeal, the appellate court quashed the order of Madarsa Board 06.09.2013 whereby the approval of the services of respondent no. 6 and 7 was cancelled by the Appellate Authority. Learned counsel for the petitioners submits that the decision of the Appellate Authority adversely affected the writ petitioners, who were respondent nos. 6 and 7 as the decision was taken ex-parte.

It is not in dispute that counsel for the writ petitioners (respondent nos. 6 and 7) appeared before the Appellate Authority and thereafter neglected the proceeding before the Appellate Authority. From perusal of Annexure-A, it appears that the Appellate Authority has allowed the appeal and cancelled the approval granted by the Madarsa Board only on account of failure to participate in the proceeding. There is no discussion on the respective merit of the appellant or the respondent nos. 6 and 7 while deciding Appeal No. 29 of 2014.



In the aforesaid circumstance, the Court is constrained to quash the order as contained in Memo No. 87 dated 18.04.2009 passed in Appeal No. 29 of 2014 and the matter is remitted back to the Special Secretary to decide the appeal afresh after hearing the petitioners and respondent no. 7 within a maximum period of 60 days from the date of receipt/production of a copy of this order subject to payment of Rs. 10,000/- (Ten thousand) to the appellant in Appeal No. 29 of 2014 within a period of 30 days from today through Bank draft.

With the aforesaid, this application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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