

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14154 of 2019

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The Managing Committee of the Madrasa Kasheful Uloom Kurudih P.S. Gauradih, District-Bhagalpur through its Secretary Md. Minnatullah, Male, aged about 26 years, son of Md. Fazlur Rahman, resident of Village-Kurudih, P.S.-Goradih, District-Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary Govt. of Bihar, Patna
3. The Principal Secretary Education Department, Govt. of Bihar, Patna
4. The Special Director Secondary Education, Govt. of Bihar, Patna
5. The District Education Officer Bhagalpur, District-Bhagalpur
6. The Bihar State Madrasa Education Board Patna through its Secretary, 5 Vidyapati Marg, P.S. Kotwali, District-Patna
7. The Chairman Bihar State Madrasa Education Board, Patna, 5 Vidyapati Marg, P.S. Kotwali, District-Patna
8. The Secretary Bihar State Madrasa Education Board, Patna, 5 Vidyapati Marg, P.S. Kotwali, District-Patna
9. The Assistant Secretary Bihar State Madrasa Education Board, Patna, 5 Vidyapati Marg, P.S. Kotwali, District-Patna
10. Abdul Qaiyum Ansari the Chairman Bihar State Madrasa Education Board, Patna, 5 Vidyapati Marg, P.S. Kotwali, District-Patna
11. Managing Committee of the Madrasa Kasheful Uloom Kurudih P.S.-Gauradih, District-Bhagalpur through its Secretary, Md. Abdul Wali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Md. Rashid Alam, Adv.
For the State	:	Mr.Lalit Kishore (AG)
		Mr. Bibhuti Bhushan, AC to AG
For the Madarsa Board	:	Mr. Prahash Srivastava, Adv.
		Md. Aslam Ansari, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 19-08-2019

Heard learned counsel for the petitioner, counsel for the
State as also counsel for the Madarsa Board.



The grievance of the petitioner is that the Chairman does not have a jurisdiction to issue a general instruction asking all the Madarsa/Principal/Secretary/Sadar Intajamia to get it registered under the Society Registration Act or Trust and copy of the same should be deposited in the Bihar State Madarsa Education Board, Patna. The petitioner has further challenged the other directions issued by the Madarsa Board fixing the service condition as has been mentioned in Annexure 3/B of the present writ application.

Learned counsel for the petitioner submits that the Chairman of the Bihar State Madarsa Education Board, Patna does not have jurisdiction to issue such type of instruction of general nature, placed reliance on the order passed by this court dated 12.7.2017 in C.W.J.C. No. 4349 of 2017 whereby the direction has been given by the State Government to frame rules as provided under Section 26(2) of the Bihar State Madarsa Education Board Act, 1981.

In the present case, the petitioner has not challenged the validity of any provision of the Act rather, is challenging the instruction issued by the Chairman, Bihar State Madarsa Education Board, Patna. Learned counsel for the petitioner submits that such power lies with the State Government not to the Chairman of the Board, inasmuch as, he has submitted that the general instruction has been issued when the Board was not constituted.



Let this matter be looked into by the Principal Secretary, Education Department, Govt. of Bihar who will examine the validity of the instruction issued by the Chairman of the Bihar State Madarsa Education Board and whatever grievance the petitioner has, he will be at liberty to raise the same before him and the Principal Secretary will take a decision in accordance with law.

If an application is filed by the petitioner before the Principal Secretary, Education Department within a period of four weeks from today, he will decide the same expeditiously preferably within a period of eight weeks from the date of filing of the application by the petitioner along with a copy of this order.

If the petitioner is further aggrieved by any order, he will be at liberty to challenge the same before the appropriate forum.

(Shivaji Pandey, J)

(Partha Sarthy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.08.2019
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