

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1279 of 2019

In

Civil Writ Jurisdiction Case No.18427 of 2019

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1. The Chairman, Bihar State Madarsa Education Board, Patna.
 2. The Secretary, Bihar State Madrasa Education Board, Patna.

... .. Appellant/s

Versus

1. Madrasa Anisul Ghurba having its Madrasa No. 156 through its newly elected Secretary, Dr. S.M. Ali Imam, S/o late S.M. Zareef at and P.O. and P.S.- Bahera, Distt.- Darbhanga.

.... Petitioner-Respondent 1st Set.

2. The Bihar State Madrasa Education Board, Patna through the Chairman.
3. Mr. Ghulam Rabbani. so-called Secretary of the Madarsa Anisul Ghurba at and P.O.- Bahera, Distt.- Darbhanga, Pin-847201

... .. Respondents No.1 & 4... Respondents 2nd Set.

Appearance :

For the Appellant/s	:	Mr. Shri Prakash Shrivastava, Advocate Mr. Shahzad Hassan Khan, Advocate
For the Respondent/s	:	Mr. Sarvadeo Singh, Advocate Mr. Sanjay Kumar, Advocate Mr. Md. Anjum Akhtar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 01-10-2019 Heard Shri Prakash Shrivastava, learned counsel for

the appellants and Shri Sarvadeo Singh, learned counsel for the

respondent-Petitioner.



The Chairman of the Bihar State Madrasa Board is in appeal before us against the interim order dated 5th September, 2019 passed by the learned Single Judge in CWJC No.18427 of 2019 whereby he has been restrained from exercising the powers as Chairman of the Madarsa Board.

Learned counsel for the appellants contends that the impugned interim mandamus virtually makes a statutory functionary non-functional and therefore, such a mandamus deserves to be dissolved.

On the other hand, learned counsel for the respondent-petitioner has invited the attention of the Court to the order passed by the High Court on 5th of July, 2019 in CWJC No.12075 of 2019. The same is extracted hereinunder:-

“Heard learned counsel for the petitioner and the counsel appearing on behalf of the Madarsa Board.

Without entering into the controversy whether the chairman of the Board has competence to decide the issue involved, the Court directs that the Secretary of the Board to place the matter of approval of the Managing Committee of the Madarsa before the Bihar Madarsa Education Board within a period of one week from today and the Madarsa Board shall examine the application for grant of approval to the constitution of the Managing Committee of the Madarsa in question within a



further period of 15 days thereafter. The decision of the Madarsa Board shall be treated as final so far as approval of constitution of Managing Committee is concerned without prejudice to the right to the parties to challenge the decision of the Madarsa Board in accordance with law.

With the aforesaid, the present writ application stands disposed of.”

We find that the order, which has now been passed and is impugned herein, is in the background aforesaid where the Chairman had not acted in conformity with the said directions.

We, therefore, dispose of this appeal keeping in view the affidavit filed today by the appellants through the appellant no.2 that the Chairman of the Board undertakes to call the meeting of the Board on 14th October, 2019. We had entertained this appeal on this assurance having been given whereafter the present affidavit has been filed.

We, accordingly, permit the convening of the meeting of the Board and direct the appellants to inform the outcome thereof to the learned Single Judge in the pending writ petition.

We request the learned Single Judge to take up the matter, preferably on 21st of October, 2019. The learned Single Judge shall be at liberty to pass any appropriate order in relation



to the functioning or otherwise of the Board or its Chairman notwithstanding the passing of this order.

This appeal is finally disposed of with the consent of the parties.

A copy of the order today.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

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