

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1965 of 2019

Manjoor Alam uchtar madhyamik vidhyalya Anti,Gaya thro. its Principal
Sunil kr. Singh Siddhanath Singh Resident of Santhua, P.S.-Rafiganj District-
Aurangabad, Bihar Petitioner/s

Versus

1. The Bihar school examination board and ors Buddha Marg, Patna through its
Chairman, Patna
 2. The Chairman, Bihar School Examination Board, Patna.
 3. The Secretary, Bihar School Examination Board Patna
- Respondent/s

with

Civil Writ Jurisdiction Case No. 3051 of 2019

Mithilesh Paswan U. M. V. Gurua Gaya, through its Principal Prithiviraj
Kumar aged about 45 years,Son of kali Ram, resident of Village- Chourhar,
Gaya, Civil Aerodram P.S- Magadh Medical, District- Gaya Petitioner/s

Versus

1. The Bihar School Examination Board and Ors Buddha marg, Patna through
its Chairman, Patna
 2. The Chairman, Bihar School Examination Board, Patna Bihar
 3. The Secretary, bihar School Examination Board, Patna Bihar
- Respondent/s

with

Civil Writ Jurisdiction Case No. 414 of 2019

Santosh Uchh Madhyamik 2 School S/o Indradeo Yadav Resident of Village
and P.O. Digghi,P.S. Konch,Distt.-Gaya

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors
2. The Chairman,Bihar School Examination Board,Patna
3. The Secretary,Bihar School Examination Board,Patna

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5366 of 2019

Janardhan Uchhtar Madhyamik (plus 2) Vidyalaya Musharwa,
Narkatiyaganj, Distt.- West Champaran, through its Secretary, Pramod Kumar
Chaubey, aged about 60 years, Gender Male, Son of Late Janak Chaubey,
Res. of Mohalla- Banuchhapar Devnagar, Ward No. 11, P.S.- Muffasil Bettiah,
Distt.- West Champaran.



... .. Petitioner/s

Versus

1. The State of Bihar and Ors Through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Bihar School Examination Board Fraser Road, Patna through its Chairman.
3. The Secretary Bihar School Examination Board, Fraser Road, Patna.
4. The Affiliation Committee of the Bihar School Examination Board Fraser Road, Patna.
5. The District Magistrate West Champaran, Bihar.
6. The District Education Officer West Champaran, Bihar.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 795 of 2019

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Dr. Mahendra Prasad Memorial U. M. V. Dariyapur, Cherki through its Secretary Jugal Kishor Son of Mahendra Prasad Resident of Dariyapur, Cherki, P.S. Sherghat, District- Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors Budha Marg, Patna through its Chairman, Patna
2. The Chairman, Bihar School Examination Board, Patna
3. The Secretary, The Bihar School Examination Board, Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 379 of 2019

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Rambalak Prasad Singh Dropadi Devi Madhyamik Uchatar Madhyamik Vidhyalya Khutha Dih, Lakhisarai, through its President Rambalak Prasad Singh Son of Vijaynandan Singh, Resident of Village-Near Pawar House, Karayanand Nagar Kautoha, P.O.-Kautoha, P.S.-Bnadahia, District- Lakhisarai.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Buddha Marg, Patna through its Chairman, Patna.
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s



with
Civil Writ Jurisdiction Case No. 534 of 2019

Ucchatar Madhyamik School S/o Ramchandra Yadav, R/o Near M.S.Y. College, Bhatbigha, Co. Operative Colony, Ashok Nagar, Anti, P.O.- Kabar, P.S.- Anti, District- Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 23767 of 2018

Om Shanti Uachh Mahavidhyalya Ganeshchowk, Itama, Mohanpur, District Gaya through its Secretary Anil Kumar, s/o Sahdeo Yadav, R/o Village- Ganesh Chak, P.S. Itama, District- Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors
2. The Chairman, Bihar School Examination Board, Patna.
3. The secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 874 of 2019

Anjali, 2 , U. M. Vidhyalya Bypass Road, Kajichak, District-Gaya through its Principal Vinay Kumar Son of Garib Das, R/o Ghugharitane, Chand Chaura, Vishnupad, Raj Kumar nagar, Gaya, District-Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board Buddha Marg, Patna through its Chairman, Patna.
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

with
Civil Writ Jurisdiction Case No. 530 of 2019



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Gopal Prasad Yadav Uchach Madhyamik Vidyalaya S/o Sri Gopal Prasad
Yadav R/o Chiraiyatar, P.O. and P.S.- Rampur, District- Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 884 of 2019

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Ideal Public Senior Secondary School, Manpur, District-Gaya through its
Secretary Ajay Kumar, Son of Mohan Prasad, Resident of Village Mastalipur,
P.O. Bara Gandhar, P.S.-Muffasil, District-Gaya.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board, Buddha Marg, Patna through its
Chairman, Patna.
2. The Chairman, Bihar School Examination Board, Patna
3. The Secretary, Bihar School Examination Board, Patna

... .. Respondent/s

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with

Civil Writ Jurisdiction Case No. 407 of 2019

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Jagdishwar Nath Daftuaar U. M. V. Amas W/o Satyajeet Kumar R/o
Pindri,Dariaura,Gaya,Dariaura,Distt.-Gaya,Bihar

... .. Petitioner/s

Versus

1. The Bihar School Examination Board and Ors
2. The Chairman,Bihar School Examination Board,,Patna
3. The Secretary,Bihar School Examination Board,Patna

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 1965 of 2019)

For the Petitioner/s : Mr. P.K. Shahi, Sr. Advocate
Mr.Shama Sinha

For the Respondent/s : Mr.Gyan Shankar

(In Civil Writ Jurisdiction Case No. 3051 of 2019)

For the Petitioner/s : Mr.Shama Sinha



For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 414 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr. Satyabir Bharti
(In Civil Writ Jurisdiction Case No. 5366 of 2019)
For the Petitioner/s : Mr.Satyavrat Verma
For the Respondent/s : Mr.Binita Singh (Sc 28)
(In Civil Writ Jurisdiction Case No. 795 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 379 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 534 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 23767 of 2018)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 874 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 530 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 884 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore
(In Civil Writ Jurisdiction Case No. 407 of 2019)
For the Petitioner/s : Mr.Shama Sinha
For the Respondent/s : Mr.Lalit Kishore

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 28-06-2019 Heard learned counsel for the petitioners and the learned counsel for the Bihar School Examination Board.

2. Mr. P.K. Shahi, learned Senior Counsel appearing on behalf of the petitioners would submit that this Court has occasion to decide the same issue in C.W.J.C. No. 5933 of 2019 and vide order dated 25.6.2018 the Court has allowed the writ application.

3. Mr. Satyabir Bharti, learned counsel appearing on behalf of the Bihar School Examination Board submits that



certain legal aspect of the matter was not considered by this Court while deciding the C.W.J.C. No. 5922 of 2019.

4. Mr. Satyabir Bharti has raised submission that these institutions were not validly granted affiliation in terms of Sections 10© of the Bihar School Examination Board Act which confers power of the Board to grant affiliation.

5. Second contention of Mr. Bharti is that Section 15(4) is attracted only in case where institution has been granted valid affiliation which fulfills all the condition under Regulation 15(4).

6. Mr. Satyabir Bharti next contended that these institutions are bogus institutions and do not fulfill the condition for grant of valid affiliation and therefore, there is no obligation to follow the procedure prescribed under Regulation 15(4). The submission of Bharti is totally misconceived for the reason (a) that the authorities after application of mind and exercising power under the Act has granted affiliation. Now they are estopped from raising the issue that they were not granted affiliation validly. enquiry is only permissible if the affiliation was granted validly under 15(4). Submission ad suggestion that affiliation was not granted validly is absurd and has to be rejected.



(b) The submission that the institution does not fulfill the criteria for grant of affiliation this submission also suffers from same fallacy as procedural requirement under regulation 15(4) is to provide procedural safeguard and it has been held out by the Larger bench of the Apex Court in **Meneka Gandhi** case that procedural requirement is sine qua non in the decision making process, starting from the judgment of the Apex Court in the case of E.P. Royappa reported in **AIR 1974 SC 444** the Apex Court is consistently maintaining the stand that arbitrariness and equality are sworn enemy. The Court always condemn decision in breach of procedural safeguard and quashed such decision as arbitrary decision.

7. Considering the aforesaid, the Court does not find any merit in the submission of Mr. Bharti and the same is accordingly rejected.

8. Since this Court has already applied mind to the facts and circumstances of the case and the requirement and procedure referring to the judgment of Chancery Court in the case of **Taylor Vs. Taylor, (1875) 1 Ch. D. 426**, the Court has no option but to allow the writ application in the same terms of writ application i.e. C.W.J.C. No. 5922 of 2014 was disposed of.



9. Mr. Bharti as last limbs of argument has raised the issue of lack of fulfillment condition for affiliation by the petitioner institution. The aforesaid submission is also absurd submission for the reason that all the terms and condition prescribed for taking decision as to grant of affiliation was presumed to be followed before granting affiliation simply because there is change in the guard, initial grant of affiliation cannot be disputed as bad without compliance of natural justice.

10. Now the new Chairman cannot claim to be wiser than the previous Chairman and the previous Board which granted affiliation. The affiliation granted earlier was based on appreciation of fact which cannot be questioned without following the procedural requirement under regulation for cancellation.

11. The consequence of quashing Annexure-1 and Annexure-13 (in C.W.J.C. No. 5366 of 2019) and allowing the writ petition must follow with immediate effect.

(Anil Kumar Upadhyay, J)

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