

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.729 of 2019

In

Civil Writ Jurisdiction Case No.10001 of 2019

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1. Md. Shamsuzzaman Son of Late Abdul Hafiz R/o Village and P.O.- Mokarrampur, P.S. Shakri, District-Madhubani
 2. The Managing Committee of Madarsa Azizia Faizul Uloom Mokarrampur, P.S. Pandaul, District-Madhubani, through its Secretary

... Respondent ... Appellant/s

Versus

1. The State of Bihar through the Special Director, Secondary Education, Government of Bihar
2. The Bihar State Madarsa Education Vidyapati Marg, Patna through its Secretary
3. The Chairman Bihar State Madarsa Education Board, Vidyapati Marg, Patna
4. The Secretary Bihar State Madarsa Education Board, Vidyapati Marg, Patna
5. The District Education Officer Madhubani
6. The Incharge Head Maulvi of Madarsa Azizia Faizul Uloom Mokarrampur, P.S.-Sakri, District-Madhubani
7. Md. Bashirul Quadri S/o Late Md. Ali Hasan R/o Village-Badarbanna, P.S.- Bahera, District-Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Shahnawaz Ali, Advocate
For the State	:	Mr. Shashi Shekhar Tiwary, AC to AAG 10
For the Madarsa Education Board	:	Md. Aslam Ansari, Advocate
For respondent no.7	:	Md. Anisur Rahman, Advocate
		Md. Akram Naiyaz, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 05-04-2022

Heard learned counsel for the parties.

Being aggrieved by judgment and order dated 06.05.2019 passed in C.W.J.C. No. 10001 of 2019 passed by learned Single Judge, appellants/petitioners have preferred this

LPA.

The writ petition was disposed of with following directions:-

“Having regard to the facts and circumstances of the case, the present writ petition is allowed and the order dated 13.04.2019 passed by the respondent no. 7 is quashed, however the matter is remanded back to the respondent no. 7 for taking recourse to appropriate proceedings in accordance with law. It is further directed that payment of the consequential benefits shall be subject to the final outcome of the proceedings to be undertaken by the respondent no. 7. However, it is directed that the aforesaid process should be completed by the respondent no. 7 within a period of six months from today, failing which it would be deemed that there is no intention on the part of the respondents to conduct any proceedings against the petitioner and consequently, the petitioner would become liable to be paid the entire salary right from the date of his suspension/ dismissal.

The present writ petition stands allowed to the aforesaid extent.”

The only issue raised by learned counsel for the appellants is that the writ petition in its present form is not maintainable as Madarsa in question is a private body.

However, it is submitted by learned counsel for the State that Madarsa functions under the provisions of Bihar State Madarsa Education Board which is a statutory body constituted under the Bihar State Education Board Act, 1981 and comes within the definition of State under Article 12 of the Constitution and, as such, amenable to writ jurisdiction under Article 226 of Constitution of India.

It is further submitted that appointment of teachers by the Managing Committee is to be approved by the Bihar State Madarsa Education Board and pay fixation is done by Department of Education, Government of Bihar and State Government is the appellate authority against the orders passed by Bihar State Madarsa Education Board. Monetary grants are also provided by the State Government, as such, State Government has a vital role in functioning of Madarsas, as such, the plea of appellants that writ is not maintainable is misconceived.

There is no merit in this LPA and is, accordingly, dismissed.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
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