

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3981 of 2023**

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Madrasa Anjuman Islamia Motihari (Madrasa No. 66), District- East Champaran, through its Secretary Dr. Md. Perwez Aziz, aged about 68 years, Male, Son of Late Dr. Md. Azizur Rahman, resident of 291 A, Bhawanipur Zirat, Post Office and Police Station- Motihari, District- East Champaran (Motihari).

... .. Petitioner/s

Versus

1. The Bihar State Madrasa Education Board, Patna through the Chairman.
2. The Secretary, Bihar State Madrasa Education Board, Patna.
3. The District Education Officer, East Champaran, District- East Champaran.
4. The Special Secretary cum Appellate Tribunal, Education Department, Government of Bihar, Patna.
5. Mohibbul Haque, Son of Inamul Haque Resident of Ward No.- 24, near Bazar Samiti, Janpul Chowk, P.O. and P.S.- Motihari, District- East Champaran, the Ex-Secretary, Madrasa Anjuman Islamia, Motihari (Madrasa No. 66), District- East Champaran (Motihari).

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Syed Masleh Uddin Ashraf, Advocate |
| For the State        | : | Mr.Prabhakar Jha, GP-27               |
|                      |   | Mr. Umesh Narayan Dubey, AC to GP-27  |
| For the Board        | : | Mr. Shahzad Hassan Khan, Advocate     |
|                      |   | Mr. Md. Aslam Ansari, Advocate        |
|                      |   | Mr.Sanjay Kumar, Advocate             |
| For Respondent no.5  | : | Mr. Raj Nandan Prasad, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

4      24-07-2023                      Heard learned counsel for the petitioner, learned counsel for the Bihar State Madarsa Education Board, learned counsel for the State and learned counsel for the respondent no.5.

2. Petitioner is aggrieved by and dissatisfied with the order as contained in memo no.175 dated 01.04.2021 (Annexure- '4' to the writ application) whereby and whereunder



the three orders passed by the Chairman of the Madarsa Education Board (hereinafter referred to as the 'Board') in respect of Madarsa Anjuman Islamia, Motihari (Madarsa No.66) have been cancelled after finding that the Chairman had not obeyed the order contained in memo no.49 dated 28.02.2020 passed by the appellate authority. The appellate authority has found in the impugned order that there was no interim order of the Hon'ble High Court staying the operation of the order contained in memo no.49 dated 28.02.2020, therefore, only because a writ petition was filed on behalf of the Board against the said order of the appellate authority, the Chairman could not have proceeded to pass an order in conflict with what had been held by the Board.

3. The only reason for grievance of the petitioner is that once the appellate authority cancelled the three orders of the Chairman of the Board, thereafter there was no reason for the appellate authority to observe that none of the two managing committees would be functioning until final decision is rendered by the Hon'ble High Court in the challenge thrown to the appellate order contained in memo no.49 dated 28.02.2020. His submission is that the appellate authority has restrained both the sides including the petitioners' side from functioning which is



not just and proper.

4. On the other hand, Mr. Khan, learned counsel for the Board submits that in fact under memo no.49 dated 28.02.2020 itself the appellate authority has restrained both the sides from functioning and the fact is that the said order of the appellate authority has not been challenged by either of the parties. It is further submitted that the Board had challenged the memo no.49 dated 28.02.2020 in a writ petition but on advise the Board has withdrawn the said writ application. It is, thus, submitted that the order as contained in memo no.49 dated 28.02.2020 has attained finality and as such the decision of the appellate authority that during existence of the memo no.49 if the Chairman went on passing the orders, those were not correct, this finding is perfectly in accordance with law and the fundamental principles of law. The Chairman was bound by the decision of the appellate authority.

5. Having regard to the submissions noted hereinabove and the materials available on the record, this Court finds no error in the impugned order as contained in Annexure- '4' to the writ application. It is not in dispute that during existence of memo no.49 dated 28.02.2020 the three orders were passed by the Chairman which he could not have done,



therefore, in the opinion of this Court, the appellate authority has rightly cancelled the same and at the same time restrained both the managing committees from functioning until the decision of the Hon'ble High Court. Even otherwise, the issues involved in the writ application are highly contested and disputed and such disputes cannot be gone into in writ jurisdiction. The parties aggrieved may seek their remedy as may be advised to them before appropriate court in an appropriate jurisdiction.

6. This writ application is being disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

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