

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3905 of 2023

Md. Mohit Ali, Son of Md. Mazahar Husen, Resident of village - Andauli,
P.S.- Kishanpur, District - Supaul.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary-Cum-Addl. Chief Secretary, Education Department, Govt. of Bihar, Patna.
4. The Special Secretary, Education Department, Govt. of Bihar, Patna.
5. The Special Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
6. The District Education Officer, Supaul, District - Supaul.
7. The Bihar State Madarsa Education Board, Patna through its Secretary. At Apex Tower Haroon Nagar Sector - II, P.S. Phulwari Sharif, District - Patna.
8. The Chairman, Bihar State Madarsa Education Board, Patna. At Apex Tower Haroon Nagar Sector - II, P.S. Phulwari Sharif, District - Patna.
9. The Secretary, Bihar State Madarsa Education Board, Patna. At Apex Tower Haroon Nagar Sector - II, P.S. Phulwari Sharif, District - Patna.
10. Sayeed Ansari, Secretary, Bihar State Madarsa Education Board, Patna. At Apex Tower Haroon Nagar Sector - II, P.S. Phulwari Sharif, District - Patna.
11. The Managing Committee of the Madarsa Islamia Rashidia Mazharul Uloom at Andauli, P.S. - Kishanpur, District- Supaul, through its Secretary, Md. Shakil.
12. Shri Abdul Qnaiyum Ansari, the then Chairman, Bihar State Madarsa Education Board, Patna, At Apex Tower Haroon Nagar Sector- II, P.S.- Phulwari Sharif, District- Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Md. Rashid Alam, Advocate
For the State	:	Mr. S.K. Ranjan, AC to GP 17
For the Board	:	Mr. Shahzad Hassan Khan, Advocate
		Mr. Md. Aslam Ansari, Advocate
		Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-08-2023 Heard learned counsel for the petitioner, learned
counsel for the Bihar State Madrasa Education Board
(hereinafter referred to as the 'Board') and learned counsel for



the State.

2. This Court had earlier issued notice to the newly added respondent no. 12. As per the office report, notice issued to respondent no. 12 has been received by office staff as per service report. In the aforesaid view of the matter, the notice has been taken to have been validly served.

3. By filing this writ application, the petitioner is seeking implementation of the order contained in Letter No. 155 dated 24.12.2020 in its terms and spirit. The petitioner also prays for a declaration that all such order and orders passed by the Chairman of the Board hereinafter as contained in Letter No. 1722 dated 06.08.2021 and in Letter No. 2781 dated 17.12.2021 are illegal.

4. Having taken note of these submissions of learned counsel for the petitioner, this Court vide order dated 20.06.2023 directed the Board to file a counter affidavit. This Court called upon the Board to say as to whether the Board has acted in terms of the directions issued by the Appellate Authority vide Annexure '1' to the writ application and any step has been taken to conduct an inquiry into the allegations leveled against the Managing Committee of the Appellant or not.

5. A counter affidavit has been filed on behalf of the



Board. A preliminary objection has been raised therein as to maintainability and entertainability of a writ application under Article 226 of the Constitution of India in the present matter as according to the Board, the petitioner is in fact seeking initiation of a contempt proceeding against the then Chairman of the Board.

6. Learned counsel for the Board has submitted that the petitioner had filed a miscellaneous petition vide Miscellaneous Petition No. 92 of 2021 before the Special Secretary, Department of Education for initiation of contempt proceeding which has been dismissed vide order dated 20.01.2023 (Annexure '9' to the writ application).

7. It is submitted that the said order is not under challenge in the present writ application. It is further submitted that the petitioner has taken recourse to a contempt application vide MJC No. 1860 of 2021 which is pending in this Court.

8. Besides, one Madrasa Appeal No. 91 of 2021 is also pending against Annexure '1/A' which is the office order contained in Memo No. 1722 dated 06.08.2021 passed by the Chairman of the Board (Respondent No. 12). It is submitted that Annexure '1/A' to the writ application has already been recalled by the Board vide its Memo No. 2781 dated 17.12.2021



(Annexure '1/B' to the writ application).

9. It is further submitted with reference to the statements made in paragraph '9' of the writ application that under the Rules 2022 regarding constitution of Managing Committee, the tenure of a Managing Committee is of three years and in this case, the petitioner's Managing Committee has already completed three years' period on 05.03.2023, therefore, the petitioner may be directed to take resolution afresh and submit it to the Board for its approval. The order of the Appellate Authority has also been pointed out in paragraph '10' of the counter affidavit.

10. In paragraph '11' of the counter affidavit, a further stand has been taken that on the representation of the petitioner, the Board has issued Memo No. 482 dated 20.04.2023 whereunder keeping in view the order passed by the Appellate Authority in Appeal No. 32 of 2020 and the applications of the teachers working in the Madrasa, the earlier withholding of payment of In-charge, Head Moulvi, namely, Md. Ghulam Rasool which was directed vide Letter No. 206 dated 08.01.2022 of the Board stands withdrawn with immediate effect. The Board has recommended to the concerned DPO that the payment of all teachers working in the concerned Madrasa



will be valid and it may be made by way of countersigned Demand Bills through In-charge, Head Moulvi, namely, Md. Ghulam Rasool and the Secretary of the concerned Madrasa.

11. Having regard to the stand taken on behalf of the Board and there being no denial of the fact that the petitioner's Managing Committee has already completed its tenure on 05.03.2023 and as per Rules, its tenure has come to an end, in the meantime, various orders have been passed by the Board as per direction issued by the Appellate Authority in Appeal No. 32 of 2020 which is Annexure '1' to the writ application, this writ application has lost its significance and at this stage, it cannot proceed.

12. Learned counsel for the petitioner submits that the petitioner's Managing Committee has been harassed by Respondent No. 12, therefore, a view should be taken to award some compensation.

13. This Court, in the facts of the present case, would not take upon itself to adjudicate an issue of compensation for the alleged harassment as it would be a disputed question of fact and may require adducement of evidences by the parties.

14. The issue is left open and the petitioner may seek his remedy as may be advised to him in accordance with law but



this Court must put a word of caution that the order of this Court shall not in any way be construed as giving any cause of action to the petitioner.

15. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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