

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7773 of 2023

=====

Motilal Yadav @ Moti Ray Son of Late Brahmdeo Prasad @ Brahmdev Ray
Resident of Village- Raghunathpur, P.S. Sahebpur Kamal, District- Begusarai.
... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department Higher Secondary, Government of Bihar, Patna.
2. The Director Higher Secondary, Education Department, Government of Bihar, Patna.
3. The Secretary, Bihar School Examination Board, Patna having his office at Buddha Marg, Patna, Bihar.
4. The Deputy Secretary Bihar School Examination Board, Patna having his office at Buddha Marg, Patna, Bihar.
5. The Director Education Bihar School Examination Board, Patna, Bihar.
6. The District Magistrate, District-Begusarai
7. The District Education Officer, District-Begusarai
8. The District Programme Officer-cum-Superintendent of Education. District-Begusarai.
9. The BEO, Sahebpur Kamal, District-Begusarai.
10. The Principal-cum-Headmaster, Shivam Girls High School, Raghunathpur, under block Sahebpur Kamal, District-Begusarai.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr.Shekhar Kumar Singh, Advocate Mr.Raja Surendra Mohan, Advocate
For the BSEB	:	Mr.Ajay Behari Sinha, Sr. Advocate Ms.Seema Ghazala, Advocate
For the State	:	Mr.Narendra Kumar, AC to GP- 20

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-06-2023 Heard learned counsel for the petitioner, learned counsel for the Bihar School Examination Board and learned counsel for the State.

Petitioner, in this case, is aggrieved by and dissatisfied with the order as contained in Memo No. 2157 dated 16.10.2020 issued under the signature of the Director



(Education), Bihar School Examination Board, Patna (Annexure '12' to the writ application) whereby and whereunder the objections raised against the petitioner upon his declaration as donor member and chairman of the managing committee of the school have been considered *ex parte* and the said decision has been cancelled.

Learned counsel for the petitioner submits that vide letter no. 324 dated 03.05.2019 issued under the signature of the Deputy Secretary of the Bihar School Examination Board, this petitioner was declared Chairman of the managing committee. It is his submission that once objections were received against it and those were being considered, the said authority was obliged to give an opportunity of hearing to the petitioner but in this case no opportunity of hearing was granted.

Mr. Ajay Behari Sinha, learned senior counsel representing the Bihar School Examination Board, Patna submits that the petitioner has not applied for the alternative statutory remedy available to him under Section 34 of the Bihar School Examination Board Act, 2019 (hereinafter referred to as the "Act of 2019"). It is submitted that the Chairman of the Board shall have the power to revise any order passed by the Secretary or by the head of the department of the respective



wing. Since in this case the Director (Education) has issued the order impugned in this writ application as head of the department of the respective wing, the petitioner may avail his remedy before the Chairman.

In the aforesaid view of the matter, this Writ Application is being disposed of with liberty to the petitioner to seek his remedy under Section 34 of the Act of 2019 by filing an appropriate application under the Chairman of the Bihar School Examination Board. If such application is filed within a period of 30 days from today, the same will be considered in accordance with law keeping in view that the petitioner has raised this issue earlier also before the State Appellate Authority and then it seems that under some legal advise he has moved this Court. Thus, question of limitation, if any, will be considered keeping in view the aforementioned facts.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

U			
---	--	--	--

