

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3793 of 2016

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Managing Committee Of Madarsa Islahul Muslemeen Jiyamari S/o Noor Mohammad, Resident of Village - Jiyamari, P.S. - Amdabad, District - Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Special Director Secondary Education Govt. of Bihar, Patna.
3. The Bihar State Madarsa Education Board Vidyapati Marg Patna through its Secretary.
4. The Chairman Bihar State Madarsa Education Board Vidyapati Marg, Patna.
5. The Secretary Bihar State Madarsa Education Board Vidyapati Marg, Patna.
6. The District Education Officer, Katihar.
7. The Managing Committee of Madars Islahul Muslemeen Jiyamari, P.S. - Amdabad District - Katihar, through its Secretary, Arshad Ali, Son of Late Nayeemuddin

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Anisur Rahman, Advocate Mr.Md. Mushtaque Alam, Advocate
For the State	:	Mr. Sheo Shankar Prasad, SC-8 Mr. Ruchikar Jha, AC to SC-8
For the Madarsa Board	:	Mr. Shahzad Hassan Khan, Advocate Mr. Aslam Ansari, Advocate Mr. Sanjay Kumar, Advocate
For Respondent no.7	:	Mr. Washi Ahmad Khan, Advocate Mr. Zeyaul Hoda, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 31-07-2023 Heard learned counsel petitioner, learned counsel for the State, learned counsel for the Madarsa Education Board and learned counsel for the respondent no.7.

2. This writ application has been filed seeking the following reliefs:-

“(A) For issuance of appropriate writ/order or



direction quashing the enquiry report submitted by the District Education Officer, Katihar through his under in Memo no.122 dated 1-4-2014 with regard to Madarsa Islahul muslemeen jiyamari p s Amdabad, District-Katihar ass contained in **Annexure -2** to this writ application.

(B) For issuance of appropriate writ/order of direction commanding the Respondents to pay salary/honorarium to the genuine and valid teachers working in the Madarsa as per the list submitted by the petitioners managing Committee as they are legally and validly appointed teachers and are working in the Madarsa since long as mentioned in para-8 to this writ application.

(C) For issuance of appropriate writ/order of direction commanding the respondents to treat the petitioners Madarsa as genuine and valid, administered, manged and controlled by the Managing committee of which the petitioner is Secretary.

(D) For any other relief of reliefs for which the petitioner is found entitled in the opinion of this Hon'ble court.”

3. It is the case of the petitioner that the respondent no.7 managed to run another Madarsa in the village with same name and have prepared some forged and fabricated documents to get the monetary benefits which are given by the government. It is further submitted that earlier an enquiry report under letter no.709 dated 30.12.2011 (Annexure- '2') was submitted by the



then District Education Officer after a spot enquiry of the Madarsa but later on the respondent no.7 managed the said authority and got another enquiry report submitted vide letter no.2122 dated 01.04.2014 showing wrong name of the managing committee and the teachers.

4. A counter affidavit has been filed on behalf of the respondent no.6. It is submitted that the Special Director, Education Department had issued a letter bearing no.192 dated 24.02.2014 directing the R.D.D.E./D.E.O. to hold spot enquiry of Madarsa in question and to verify the earlier enquiry report. Accordingly, it is submitted that an inspection was conducted and inspection report was sent to the Special Director vide Annexure- 'A' to the counter affidavit. It is further submitted that relying upon the recommendation given in the matter by the Bihar State Madarsa Education Board a final decision has been taken at the level of the government to provide additional aid to 609 Madarsas which has been notified vide memo no.670 dated 07.09.2015 and it is in the said notification that at serial no.377 the name of Madarsa Islahul Muslemeen Jiyamari, Katihar stands recorded in which as per the petitioner's claim a different set of teachers are included. It is submitted that the final decision i.e. notification no.670 dated 07.09.2015 will guide the



payment of salary to the teachers of Madarsa in question.

5. A counter affidavit has also been filed on behalf of the respondent no.7. Respondent no.7 submits that the report of the D.E.O. vide letter no.2122 dated 01.04.2014 is genuine and it is his further submission that the petitioner has not donated the land on which the present Madarsa is running rather the land has been donated by the respondent no.7.

6. Having heard learned counsel for the parties and on perusal of the records, this Court finds that the issues involved in the present writ application are highly disputed question of facts which cannot be gone into under Article 226 of the Constitution of India. The disputes are such that it may require adducement of evidences by the parties. In such circumstance, this Court refrains from exercising its extra-ordinary writ jurisdiction. It is open to the parties to seek their remedy as may be advised to them in accordance with law.

7. This writ application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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