

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22725 of 2013

Millate Urdu Middle School, Chunauti Kuan, Phulwari Sharif, Patna, P.S.-
Phulwari Sharif, District-Patna represented through the Secretary Managing
Committee Md. Nazamuddin, Son of Late Sarajul Haque, Resident of
Mohalla - Mahatwana, P.S. - Phulwarisharif, District - Patna

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna
3. The Principal Secretary, Department of Education, Govt. of Bihar, Patna
4. The Director (Primary Education), Government of Bihar, Patna
5. The Deputy Director (Primary Education), Government of Bihar, Patna
6. The District Program Officer, Patna
7. The District Education Officer, Patna
8. Millat Urdu Middle School, Mahatwana Phulwari Sharif, Patna, through it's
Secretary.
9. Edara Khair Ummad (Regd.) Phulwari Sharif, through it's General
Secretary Qaib Siddiqui having it's Office at Phulwari Sharif, P.S. -
Phulwari Sharif, District - Patna

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Pratik Kumar Sinha, Advocate Mr. Manoj Kumar, Advocate
For the State	:	Mr. Sita Ram Yadav, GP-16 Mr. Jitendra Kumar, AC to GP-16

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 24-07-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. This writ application has been filed seeking a writ
in the nature of Mandamus directing respondent no. 2 to
consider the representation dated 08.11.2010 submitted by the
petitioner before respondent no. 2 questioning the decision of
respondent no. 3 as contained in Memo No. 1436 of 26.10.2010.



In alternative, the prayer is to quash and cancel the Memo No. 1436 dated 26.10.2010 issued under the signature of the Principal Secretary, Department of Education (respondent no. 3).

3. On going through the materials available on the record, this Court finds that in the present case, there is a dispute of identity between the two groups i.e. the petitioner and the respondent no. 8. The one group is claiming that it is the school running at Chunauti Kuan, Phulwari Sharif, Patna which is the real one whereas the another group is saying that it is the school situated at Mahatwana Phulwari Sharif, Patna which is the real Millat Urdu Middle School. There is a chequered history of litigation between the parties.

4. Earlier, this Court had directed the Principal Secretary, Department of Education to pass an appropriate order on the issues involved between the parties. Pursuant to the said order of this Court, the Principal Secretary of the Education Department has passed the impugned order as contained in Annexure '13' to the writ application.

5. After hearing learned counsel for the petitioner and the State, this Court is of the considered opinion that the kind of dispute between the parties cannot be aptly adjudicated in a writ



application under Article 226 of the Constitution of India. A finding of fact on the issue may be recorded only after allowing both the parties to adduce their respective evidences. This Court would, therefore, not entertain this writ application.

6. The writ application is, thus, dismissed but with liberty to the petitioner to seek his remedy, if any advised to him in accordance with law.

7. Let it be recorded that this Court has not gone into the merit of the case and the present order would not give rise to any cause of action.

(Rajeev Ranjan Prasad, J)

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