

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16353 of 2022

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1. Bihar Rajya Arya Pratinidhi Sabha Patna through its President (Pradhan) Sanjiv Chaurasia having its registered office Sri Munishwaranand Bhawan, Naya Tola, P.S.- Kadamkuan, District- Patna, 800004
 2. Sanjiv Chaurasia Son of Sri Ganga Prasad, Resident of Arya Bhawan, Khajpura, Bailey Road, P.S.- Shastri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director (Secondary Education), Education Department, Government of Bihar, Patna.
4. The District Education Officer, Patna.
5. Bhai Birendra Son of Late Rajendra Prasad Rai, Resident of Village and P.O.- Mahinava, P.S.- Maner, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Adv. Mr. Vikas Kumar, Adv.
For the Respondent/s	:	Mr. Kameshwar Kumar (GP-17) Mr. S.K. Ranjan, AC to GP-17
For the Respondent No.5:	:	Mr. Y.V. Giri, Sr. Adv. Mr. Pranav Kumar, Adv. Ms. Shrishti Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
CAV JUDGMENT

Date : 30-01-2023

1. Heard the parties.

2. The writ petition has been preferred assailing the order dated 02.11.2022 passed by the Director, Secondary Education, Government of Bihar, Patna, whereby the earlier order passed dated 28.05.2021 has been cancelled with immediate effect, whereby the petitioner no.2 had been allowed



to function as Pradhan for managing the affairs of the Minority Secondary Schools under the control of the Bihar State Arya Pratinidhi Sabha and further it was ordered declaring the respondent no.5 Bhai Birendra to continue as Pradhan for the aforesaid purpose.

3. Learned Senior counsel appearing for the petitioner submits that the action of the respondent in interfering in the management of the minority institutions is contrary to law and in view of the provisions of Article 30(1) of the Constitution of India and order passed by the respondent-state dated 01.11.2022 amounts to direct interference with the affairs and management of the minority institutions being run by the Bihar State Arya Pratinidhi Sabha and further it has been argued that the order dated 02.11.2022 is unsustainable keeping in view the judgment passed by the Division Bench of this Court holding that the State Government does not have the power to interfere in the functioning of the managing committee of the Bihar State Arya Pratinidhi Sabha (hereinafter referred as Bihar Arya Sabha).

4. Per contra, learned counsel appearing for the respondent no.5 supports the order passed by the State Government and submits that the petitioner no.2 has wrongly



been shown to be Pradhan of the Bihar Arya Sabha and it is in fact the respondent no.5 Bhai Birendra who has been duly elected as the President/Chairman of the Bihar Arya Sabha. The order whereby the petitioner no.2 was ordered vide order dated 28.05.2021, whereby, the petitioner no.2 was authorized as Pradhan to manage the affairs of the minority secondary schools under the control of Bihar Arya Sabha was wrongful and the State Government has corrected its earlier order by the impugned order dated 02.11.2022 and the same does not warrant any interference.

5. The State Government has also supported its order dated 02.11.2022 holding that the earlier order passed was wrongful.

6. In order to appreciate the controversy raised and to adjudicate the same, it would be necessary to advert, to a certain extent, few facts. The Arya Samaj was founded by Swami Dayanand Saraswati on 07.04.1875 as a sect of Hindu religion at Mumbai, erstwhile previously known as Bombay. It essentially propagates proselytization in Hinduism and believes in one creator God. It only believes in Vedas and Upnishads and rejects other epics namely Ramayan and Mahabharat as merely legends of historical figures as well as Puran and Hindu



mythology. It does not believe in idol worship. As per the petitioner, the Bihar Arya Sabha is one of the affiliated sabha of All India Society known as Sarvadeshik Arya Pratinidhi Sabha, New Delhi which is a society registered under the Societies Registration Act, 1860 and is the apex body of Arya Sabha worldwide. It is stated that the said society was founded by one Swami Shradhanand Jee Maharaj for administration of Arya Samaj organization all over the world and the general body of the said society is found by delegates sent by 21 affiliated Sabhas. The Bihar Arya Sabha held its first election in the year 2006 and the father of petitioner no.2, Ganga Prasad, was elected as Pradhan from 2009 to 2012 and 2012 to 2015. He was elected as the President in all the three elections. A decadent faction of the Bihar Arya Sabha had filed a Title Suit in 7/2007, wherein an interim order was passed by the Civil Court. On an application filed by one Shyam Kishore Sharma and Nawal Kishore Shastri under Order 6 Rule 17 read with Section 151 C.P.C. it directed the handing over of the properties of the Arya Sabha to the committee led by the father of the petitioner. The said order was challenged before the High Court in C.W.J.C. No.9205 of 2010 which came to be decided on 05.11.2012 and the order of the learned Subordinate Judge was upheld with



observation that it will be open to the parties to fight their legal battle in the main suit. Another C.W.J.C. No.630 of 2013 came up before this Court wherein Shyam Kishore Sharma sought quashing of the order dated 27.12.2012 whereby in terms of the order passed by the Civil Court in Title Suit, the school management committee constituted by the father of the petitioner no.2, who was the President of the Bihar Arya Sabha was directed to run school namely the Arya Kanya Uchcha Vidyalaya, Patna. The writ petition was dismissed and the power and authorities of the petitioner's father who had been elected was upheld.

7. There is a dispute relating to the control of the society namely Sarvadeshik Arya Pratinidhi Sabha, New Delhi and as has come on record during the course of hearing, the High Court of Delhi vide its order dated 02.11.2011 in a I.A. No.17249 of 2011 in Suit No. 1146/2004 Sarvadeshik Arya Pratinidhi Sabha & Anr. Vs. Kailash Nath Yadav & Ors. appointed court commissioner consisting of three retired judges of High Court to examine the dispute pending before it and several factions of the society representing different states are before the Court Commissioner who has passed orders from time to time.



8. The respondent no.2 has filed their counter affidavit and admitted that the State Government and its authorities have no jurisdiction to interfere in the internal management of the affairs of the minority institutions. However, it is stated that in certain exceptional circumstances when the situation so warrants, the authorities have solemn duty to oversee the proper academic atmosphere, health, hygiene as well as law and order problem etc. if any should be sorted out to maintain excellence and standard of education, and in the interest of institution and students. It is stated that under the compelling circumstances, the authorities have to take care by making interim arrangements from time to time authorizing the concerned person to administer the schools and in the circumstances it had passed orders earlier directing Ganga Prasad (father of the petitioner no.2) who was elected as the President to manage the affairs of the institution run by the Bihar Arya Sabha. It is further stated that since the issue with regard to the society and its members is a subject matter pending before the Delhi High Court and before the Commissioners, as a stopgap management, respondent no.4 has been authorized to act till the issue is finally resolved. It is stated that earlier the petitioner no.2 was elected in the election



of the Bihar Arya Sabha and therefore he was directed to manage the minority schools vide order dated 28.05.2021 but he had not informed about the dispute pending at Delhi High Court.

9. Earlier too, vide order dated 29.05.2017, the Director, had issued a letter cancelling its earlier order dated 17.02.2016, recognizing Ganga Prasad as the Pradhan of the Arya Sabha and Bhai Birendra was recognized as the Pradhan. The C.W.J.C. No. 8258/2017 was preferred by the President Ganga Prasad which was decided on 22.06.2018. In the said writ petition, both the petitioners therein as well as the respondent no.5 who was respondent no.4 therein, claimed that they are the duly elected Pradhans. The issue was examined and an order came to be passed by this Court directing the Chairman Bihar School Examination Board to constitute the management committee of the school run by the Sabha and further also constitute an ad hoc governing body of the school. The said order passed by the Single Judge was challenged before the Division Bench by the petitioners herein as in the meanwhile the concerned President namely Ganga Prasad, father of the petitioner no.2 was appointed elsewhere as Governor of the State and the petitioner no.2 had claimed himself to have been



elected on the post.

10. The Division Bench noticed all the facts as above and upheld the order of the State Government dated 29.05.2017 whereby the Director had recalled its earlier order dated 17.02.2016 on the ground that being a minority institution, the State Government cannot issue any direction with respect to the administration and management. It also found that the Single Judge had also dismissed the writ petition on that count but had further directed for appointing of the ad hoc committee. The said directions of the Single Judge was set aside and observed as under:-

“8. Now, so far as the claims and counter claims by the rival parties that they are in administration and management of BRAPS and minority institutions of BRAPS are concerned, there are serious disputed questions of fact and both claim to be in administration and management and even number of civil proceedings are pending in the Patna Civil Court as well as Delhi Court, we refrain from passing any order on the aforesaid and we leave it to the parties to agitate the same before appropriate Court/Forum, may be in the pending proceedings.”

11. This Court finds that the petitioner has been elected for the session 2018-21 in the elections held on



23.09.2018. He has thereafter been again elected for the Session 2021-24 on 26.09.2021. The same has been also approved by the main body namely Sarvadeshik Arya Pratinidhi Sabha vide its letter dated 22.04.2022 (Annexure-19). An Assistant Inspection General of Police, Registration, Bihar vide its letter dated 23.05.2022 has approved the amendments of Article on the basis of representation made by the petitioner no.2. The said registration dated 23.05.2022 which has been placed on record by the respondent in their counter affidavit has not been challenged by the respondent either before any Civil Court or before this Court. It appears that the respondent no.2 has submitted a representation against the said registration before the I.G., Registration himself on 06.06.2022 which could not have been filed as there is no review available with him.

12. The Court Commissioner's order dated 14.11.2022 has also been placed before this Court which reflects that the Court Commissioners appointed by the Delhi High Court have yet to finalize the composition of the Sarvadeshik Arya Pratinidhi Sabha as the delegates from the provinces have not been elected in a proper manner. It is also noticed that the Arya Pratinidhi Sabha, Haryana is yet to be formed.

13. Having noticed the aforesaid facts, this Court



finds that the State Government has unauthorizedly and in direct contravention of the observations of this Court, proceeded to pass the impugned order dated 02.11.2022.

14. Also the proceedings are going on before the Commissioner, this Court refrains from passing any order with regard to the formation of the core committee of Sarvadeshik Arya Pratinidhi Sabha, at Delhi. However, from the proceedings which have come on record, there is no observation by the Court Commissioner relating to the duly elected committee of the Bihar Arya Sabha. The elections conducted of the Bihar Arya Sabha and the findings arrived at by the Additional Inspector General, Bihar, Patna dated 30.09.2021 have not been challenged in any civil proceedings by the any member tribunal. There was no occasion for State Government to interfere in the internal affairs of the society and initiate the present litigation.

15. In **T.M.A. Pai Foundation Vs. State of Karnataka** as reported in **(2002) 8 SCC 481**, the Apex Court while examining the question as to what extent can the rights of aided private minority institution to administer be regulated, its answer is as under:-

Q.5(c) Whether the statutory Provisions which regulate the facets of administration like control over educational agencies, control over



governing bodies, conditions of affiliation including recognition /withdrawal thereof, and appointment of state employees, teachers and Principals including their service conditions and regulation of fees, etc. would interfere with the right of administration of minorities?

A. So far as the statutory provisions regulating the facets administration is concerned, in case of an unaided minority educational institution, the regulatory measure of control should be minimal and the conditions of recognition as well as conditions of affiliation to an University or Board have to be complied with, but in the matter of day-to-day Management, like appointment of staff, teaching and non-teaching and administrative control over them, the Management should have the freedom and there should not be any external controlling agency. However, a rational procedure for selection of teaching staff and for taking disciplinary action has to be evolved by the Management itself. For redressing the grievances of such employees who are subjected to punishment or termination from service, a mechanism will have to be evolved and in our opinion, appropriate tribunals could be constituted, and till then, such tribunal



could be presided over by a Judicial officer of the rank of District Judge. The state or other controlling authorities, however, can always prescribe the minimum qualifications, salaries, experience and other conditions bearing on the merit of an individual for being appointed as a teacher of an educational institution.

Regulations can be framed governing service conditions for teaching and other staff for whom aid is provided by the State without interfering with overall administrative control of Management over the staff, Government/University representative can be associated with the selection committee and the guidelines for selection can be laid down. In regard to un-aided minority educational institutions such regulations, which will ensure a check over unfair practices and general welfare, of teachers could be framed.

There could be appropriate mechanism to ensure that no capitation fee is charged and profiteering is not restored to.

The extent of regulations will not be the same for aided and un-aided institutions.”

16. Thus, the State authorities would have no



business to direct a particular individual or to remove an individual from holding the control of a Minority Institutions Administrative Society.

17. The Bihar Society Registration Rules, 2018, governing the State of Bihar reads as under:-

Disputes relating to Societies

18. If a dispute arises out of the existence of two rival Governing and / or executive bodies for being a rightful Managing body of the Society, then, the IG may :-

(i) Ask the District Magistrate to enquire himself or through one of his subordinate officers and submit a report, and / or

(ii) Invite all the rival bodies and hear the matter in person, and / or

(iii) Cause re-election of the Governing and / or Executive Body to be done in the presence of an Observer appointed by the IG, Registration.

Based on the findings from aforementioned steps, the IG shall pass suitable Order adjudicating the matter.

19. Where a complaint regarding acts of commission and omission against the Society or any of its Member is received, the IG, Registration may enquire the matter himself or through such authority as he may deem fit and cause report to be submitted. Consequent



upon such a report is being filed before IG, Registration, he may pass a suitable order after giving due opportunity of hearing to all the parties concerned.

18. Therefore, the State Government will refrain from passing any orders with regard to management and affairs of the societies which govern the administration of the minority institutions. The petitioners shall be allowed to continue to have the control and administration of the minority institutions being run by it.

19. However, it is made clear that any change in the administration of the Arya Sabha or recognition of such would be governed by the directions issued by the Delhi High Court and the observations of the Commissioner if the issue is raised before it. The present order shall not in any manner be read to be given any finding with regard to the issues/ findings before the Delhi High Court and the Commissioner appointed by it. This Court has only examined the validity of the orders passed by the State Government.

20. Having noticed the orders passed by the I.G., Registration, which recognized the petitioner as President of society, the order passed by the State Authorities dated 02.11.2022 is quashed and set aside. The I.G., Registration, being the recognizing body of a particular society in the State of Bihar would of course be having jurisdiction with regard to



considering and recognizing an elected body of a society.

21. The writ petition is accordingly allowed.

(Sanjeev Prakash Sharma, J)

amit/-

AFR/NAFR	AFR
CAV DATE	12.01.2023
Uploading Date	
Transmission Date	

