

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18353 of 2022

=====

Md. Abid Hussain @ Mohammad Avid Hussain S/o Nur Mohammad R/o
Village- Hathiyadiara, P.O.- Dalan, P.S.- Rautara, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief- Secretary, Department of Education, Government of Bihar, Patna.
2. The Special Secretary, Education Department, Govt. of Bihar, Patna.
3. The Chairman, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
4. The Secretary, Bihar State Madarsa Education Board, Vidyapati Marg, Patna.
5. The District Magistrate, Katihar.
6. The District Education Officer, Katihar.
7. The Secretary of New Managing Committee, Madarsa Islamia Hathia Diara (Madarsa No. 662) P.O.- Dalan, District- Katihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Rajendra Narain, Sr. Advocate Md. Ataur Rahman, Advocate Ms. Anju Narain, Advocate Mr.Umesh Kumar Roy, Advocate Mr.Adish Raj Singh, Advocate
For the State	:	Mr.Hari Mohan Mishra, AC to GP 27

=====

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 16-02-2023 Heard learned senior counsel.

2. The petitioner has assailed the order dated 25.10.2022 passed by the Special Secretary-cum-Appellate Authority, Education Department, Government of Bihar, Patna under the Madarsa Act, whereby the appeal preferred by the petitioner has been rejected.

3. The learned counsel for the petitioner submits that



the order passed in the appeal is wholly illegal and arbitrary and the appellate authority has failed to exercise its jurisdiction. It has also failed to appreciate the contentions raised by the petitioner in the appeal.

4. I have considered the submissions and found that the petitioner had preferred an appeal challenging the order dated 11.01.2022 passed by the Bihar State Madarsa Education Board, Patna, whereby the Managing Committee was formed consisting of Members of the Trust was approved in terms of Section 28(2) of the Act, 1981 and was authorized to conduct functions internal and external of the concerned Madarsa.

5. The petitioner claimed himself to be the Secretary of the Managing Committee, which was functioning earlier and it was his submission that the petitioner as the Secretary of the Managing Committee was approved by the Board on 29.04.2008 whereafter the said Secretary was continuously performing his duties and managing the affairs of the Madarsa and, therefore, there was no occasion to approve a separate managing committee consisting of members of the Trust.

6. The appellate authority has heard both sides and recorded their contentions whereafter gave its finding on each aspect. It reached to a conclusion so far as the petitioner is



concerned that he was functioning as the Secretary of the managing committee, which has been granted approval in the year, 2008. The tenure of the managing committee ordinarily is for a period of three years and, however, the same continued without any authority for years together. The appellate authority also reached to a conclusion that the committee, which was formed after due election, was sent for approval to the Madarsa Education Board with all necessary documents and the Waqf Board thereafter granted its approval after conducting scrutiny. It also recorded that the District Education Officer, Katihar had also conducted an inspection of the Madarsa and found that there were three different schools being run in the same building including Madarsa and the children were finding it very difficult to pursue their education. In such circumstances, a decision was taken by the respondent committee to shift the Madarsa to a separate building. The appellate authority approved such decision with a condition that the concerned building where the managing committee seeks to shift the Madarsa, may be inspected and examined by the Madarsa Board before granting its approval. The order was passed by the Special Secretary as an appellate body giving cogent reasons and reached to its conclusion based on factual findings.



7. Under Article 227 of the Constitution of India, this Court has limited scope of interference. Unless this Court finds an order to be perverse or passed without jurisdiction, no interference is warranted.

8. Keeping in view the aforesaid principles, this Court finds that the order impugned is based on cogent reasons and there is no perversity or judicial infirmity in it.

9. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Chn/-
Item No.9

U			
---	--	--	--

