

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1689 of 2019

In
Civil Writ Jurisdiction Case No.15110 of 2018

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1. Pandit Din Dayal Upadhyay High School Dashai Baghari, P.S. Runni Saidpur, District Sitamarhi through its Incharge Head Master-cum- Secretary of the Managing Committee Subodh Kumar, Male, aged about 53 years, Son of Sri Ram Tahal Singh presently residing at Village Dashai, P.S. Runni Saidpur, District Sitamarhi.
 2. Subodh Kumar Son of Sri Ram Tahal Singh Presently residing at Village Dashai, P.S. Runni Saidpur, District Sitamarhi, resident of Bhawani Nagar, Bhachchi P.S. Madhubani Sadar District Madhubani, the Incharge Head Master-cum-Secretary of Managing Committee of Pandit Din Dayal Upadhyay High School, Dashai Baghari.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director Secondary Education, Bihar, Patna.
4. The District Education Officer, Sitamarhi.
5. The District Programme Officer, Secondary Education, Sitamarhi.
6. The Bihar School Examination Board, Patna through its Secretary.
7. The Secretary, Bihar School Examination Board, Patna.
8. The Examination Controller (Secondary), Bihar School Examination Board, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vaidehi Raman Prasad Singh
For the Respondent/s	:	Mr. P.K.Shahi, Sr. Advocate
		Mr. Gyan Shankar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)



Date : 29-08-2024

Re: I.A. No. 01 of 2023

The present I.A. has been filed for condoning the delay of 67 days in filing the appeal.

2. Having gone through the affidavit filed along with the application, we find that there are sufficient grounds stated by the appellant to condone the delay.

3. Delay is condoned.

4. I.A. No. 01 of 2023 stands allowed.

Re: LPA No. 1689 of 2019

The writ petition was filed by a school and its In-charge Headmaster challenging the suspension of affiliation of school, which was alleged to be without notice to the writ-petitioner and the order of suspension itself was not served on the writ-petitioner. The counter affidavit of the Bihar School Examination Board (for brevity, the Board) produced the order of suspension, which was challenged by way of an interlocutory application.

2. When the matter was pending, the Board took proceedings as per the directions in an earlier writ petition numbered as C.W.J.C. No. 15130 of 2017, which was filed by the first appellant herein. Therein, by order dated 13.12.2017, an Enquiry Committee was directed to be constituted, who were at



liberty to call upon the contesting parties, while giving them an opportunity of personal hearing. The said writ petition was disposed of by Annexure-9 order dated 18.06.2018, wherein the Board submitted that appropriate action will be taken on the basis of the decision of the Committee.

3. When the present writ petition was pending, the Board issued Annexure-A dated 19.12.2018, cancelling the affiliation which is produced along with the supplementary counter affidavit dated 06.02.2019 of the Board. This was again challenged by way of an interlocutory application no. 01 of 2019 by the writ-petitioner.

4. By the impugned order in the appeal, the writ petition was disposed of directing the Board to provide opportunity of hearing to the petitioner and decide the issue of In-charge Headmaster of the school in question and also simultaneously decide the issue of grant of affiliation of the school after looking at the genuineness of the rival claims. The writ petition had in fact challenged the order of cancellation of affiliation, which was not considered by the learned Single Judge. In the teeth of the cancellation effected by the Board, there can be no controversy raised on the question of right to the post of the Headmaster. The writ petition ought to have been



considered on the merits; against the impugned orders.

5. In the above circumstances, we set aside the order in the writ petition and restore the case before the learned Single Judge to consider the challenge made to the cancellation of affiliation.

6. We are of the opinion that I.A. No. 01 of 2019, which challenged the order of cancellation of affiliation which was produced by the respondent, should be allowed.

7. The appeal stands disposed of making it clear that we have not said anything on the merits of the cancellation of affiliation. We request the learned Single Judge having roster, to expedite hearing since the matter is of the year 2019.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
Uploading Date	04.09.2024
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