

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16200 of 2025

Md Aslam Kamil Son of Md. Moqueemuddin, Resident of Ward No.15, Bochagari, P.S.- Bahadurganj, Dist-Kishanganj at present the Secretary of the Managing Committee of Madarsa Islahul Muslemeen Bochagari, P.O.- Nishandra, P.S.-Bahadurganj, District-Kishanganj, Madarsa No.534.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Education Department, Government of Bihar, Patna.
2. The Special Director, Education Department (Secondary Education), Government of Bihar, Patna.
3. Bihar State Madarsa Education Board through its Secretary, 5, Vidyapati Marg, District Patna 01.
4. The Chairman, Bihar State Madarsa Education Board, 5, Vidyapati Marg, District Patna 01.
5. Abdus Salam Ansari, The Secretary, Bihar State Madarsa Education Board, 5, Vidyapati Marg, District Patna 01.
6. The District Education Officer, Kishanganj.
7. The Block Education Officer, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sushil Kumar Jha, Adv.
For the Respondent/s	:	Mr. Government Pleader (03)
For Madarsa Board	:	Mr. Shahzad Hassan Khan, Adv.
		Mr. Aslam Ansari, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-10-2025 Heard the parties.

2. The petitioner claimed to be the Secretary of the managing committee of the Madarsa Islahul Muslemeen Bochagari bearing Madarsa No. 534, Bahadurganj, Kishanganj has approached this Court on being aggrieved with the letter no. 985 & 986 both dated 03.09.2025 issued under the signature of the respondent Secretary of Bihar State Madarsa Education



Board (BSMEB) whereby the respondent Secretary of the Board without having jurisdiction reviewed the order contained in Memo No. 816 dated 09.08.2025 passed by the Chairman of the Board and issued the impugned orders contrary to the earlier order dated 09.08.2025, without assigning any reason for review and in the teeth of the principle of natural justice.

3. Learned advocate for the petitioner taking this Court through the order contained in Memo No. 816 dated 09.08.2025, the copy of which is marked as Annexure – P/4 of the writ petition has submitted that the claim of the first party with regard to the constitution of the managing committee has already been rejected and thereafter, the Block Education Officer was directed to inquire the matter with regard to the claim of the petitioner but surprisingly by the impugned order contained in letter no. 985 and 986 both dated 03.09.2025, the Secretary of the Board reviewed the earlier order and further directed the District Education Officer, Kishanganj to inquire the matter regarding the validity of the managing committee with respect to both the parties and thereby again revive the claim of the first party, which had already been rejected by the Chairman. Learned advocate for the petitioner further contended that the impugned order causing prejudice to the petitioner is in



the teeth of principle of natural justice in as much as before passing the impugned order the petitioner has not been allowed any opportunity of hearing. To support the aforesaid contention reliance has also been placed on the Division Bench decision of this Court in the case of *Azimullah vs. The Chairman, Bihar State Madarsa Education Board* in *LPA No. 408 of 2013*. He further submits that even if it is accepted that both these impugned orders have been passed pursuant to the direction of the Chairman under the rules, the Chairman is also not empowered to review the order.

4. Learned advocate for the Board and the State refuted the contention and submitted that both these orders have been passed in pursuance to the direction of the Chairman of Bihar State Madarsa Education Board and, in fact, only communication has been made through the Secretary and hence, in no view of the matter it can be said that the order of the Chairman has been reviewed. It is further submitted that from the order dated 09.08.2025, it is clear that there is a claim and counter claim with regard to the constitution of the managing committee and in the aforesaid premise the order impugned has been passed.

5. Having considered the submissions advanced by



learned advocate for the respective parties and taking note of the materials available on record this Court *prima facie* finds substance in the submission of learned advocate for the respondents. In order to give quietus to the litigation with regard to the claim and counter claim of two rival parties regarding constitution of managing committee, the Bihar State Non-Government Recognized Aided Madarsa Managing Committee Constitution Rules, 2022, specially rule 6(2) thereof, postulates that in case of such dispute the District Education Officer is the competent authority who shall inquire the matter and submit a report, after making local inspection of the catchment area before the Board based upon which the final decision shall be taken.

6. The submission of the petitioner that by the impugned orders, the earlier order of the Chairman of the Board was reviewed has no leg to stand as the impugned orders are issued in pursuant to the order of the Chairman of the Board itself.

7. Further, the decision of the learned Division Bench in the case of Azimullah (supra) in utmost regard, is not applicable in the facts of this case. In the said case, the learned Single Judge instead of noticing, the impugned order having



been passed without giving opportunity to the Secretary of Managing Committee to defend the allegation, has relegated the parties to avail the remedy of appeal; Thus the learned Division Bench holding the availability of alternative remedy, not an absolute bar to the exercise of discretionary writ jurisdiction, if there is violation of the principles of natural justice, set aside the order of the learned Single Judge and remanded the matter to the Board again. However, in the case in hand, the prayer of this petitioner is otherwise.

8. In view thereof, this Court does not find any reason to interfere in the writ petition. The same stands dismissed.

(Harish Kumar, J)

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