IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8596 of 2024

CNR No. BRHC010492172024

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Ajit Kumar Singh, S/o-Shamsher Jang Bahadur Singh, R/o Ghospur, Ward No. 7, Haveli Kharagpur, Dist- Munger, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Secretary, Bihar School Examination Board (Higher Secondary), Buddha Marg, Anmol Pal Hotel, Frazer Road Area, Patna-800001.
3. Principle Secretary, Education Department, Government of Bihar, Patna.
4. Director, Higher Education, Secretariat, Government of Bihar.
5. Narendra Singh College, Haveli Kharagpur, Dist- Munger, PIN-811213, through its Principal/ Secretary
6. Ranjan Kumar Singh, President Narendra Singh College, Haveli Kharagpur, Dist- Munger, PIN- 81213

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar Singh (in person)
For the State	:	Mr. Standing Counsel (21)
For the BSEB	:	Mr. Vipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 27-10-2026

This Court has heard Mr. Ajit Kumar Singh (in person) and Mr. Vipin Kumar, learned advocate representing the Bihar School Examination Board. The State is represented through Mr. Sanjay Kumar, learned Advocate.

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2. At the outset, it would be worth noting here that during pendency of the present writ petition, the relief no.(i) has become infructuous by efflux of time and, as such, the petitioner is not pressing the same. However, the petitioner presses the present writ petition seeking issuance of a writ of Mandamus directing the respondents to consider him as a donor member of Narendra Singh College, Haveli Kharagpur, Munger under Rule 8(a) of Bihar Intermediate Education Council (Establishment of Colleges and Conduct of Examination) Rules, 1994 (hereinafter referred to as 'the Rules, 1994') in view of his having been a competent donor on account of due payment of requisite donation amount on 23.12.2010, when the aforesaid Rules were enforced in the State of Bihar and the College, in question, along with other identically situated Colleges, were being administered under the provisions of the said Rules.

3. Prayer has also been sought to correct the donor register of Narendra Singh College, Haveli Kharagpur, Munger by including the name of the Trust (which donated land ad-measuring 7 acres for the college) as donor and the name of the petitioner as a trustee thereof with effect from 23.12.2015 under Rule 8(a) of the Rules, 1994, as on death of Murlidhar Singhania, the erstwhile trustee and donor member of the

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College, the petitioner was appointed as second trustee on 23.01.2015 by the then lone surviving trustee and donor member of the College, namely, Shamsher Jang Bahadur Singh. Direction has also been sought to nominate the petitioner as President of the College to constitute the Governing Body and Managing Committee of the College, as per the Rules prescribed in this behalf.

4. The brief facts as culled out from the materials available on record demonstrate that the College, in question, namely, Narendra Singh College at Haveli Kharagpur, Munger, was established in the year 1984 and was granted affiliation by Tilka Manjhi Bhagalpur University, Bhagalpur for the purposes of imparting Intermediate (Higher Secondary) education. On promulgation of Bihar Intermediate Education Council Act, 1992 (hereinafter referred to ‘as the Act, 1992’), the College was duly recognized and registered under Section 41 of the Act, 1992. For establishment of the College, a land ad-measuring 7 acres was donated by a trust through duly registered gift deed by the then trustee Shri Shamsher Jung Bahadur Singh and Sri Murlidhar Singhania. Under Rule 8(a) of Rules, 1994, the College was required to maintain a separate donor register, seemingly the names and addresses of all the persons, who have

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donated requisite sum of Rs. 25,000/- or more, either in cash or in kind, was duly prepared. The trust which had donated land to the College is said to be the Principal donor and the names of the two trustees, who had executed the gift deed in favor of the College, was accordingly entered. The name of Shri Shamsher Jung Bahadur Singh and Sri Murlidhar Singhania also found mention in the donor register of the College, for having donated Rs. 25,000/- or more in their personal capacity. The management of the College was entrusted to the Governing Body constituted in accordance with Act, 1992 and the Rules, 1994.

5. In the course of time, Bihar Intermediate Education Council (Repeal) Act came into force by due publication in the Bihar Gazette (Extraordinary) on 19.04.2007, repealing the Bihar Intermediate Education Council Act, 1992. The Act, *inter alia*, provided that all the liabilities and obligation of the Council under any agreement or contract entered into *bona fide* shall devolve and deemed to have been devolved on the Bihar School Examination Board. Subsequent thereto, the petitioner vide receipt number 5286 donated Rs. 15,000/- to the College on 23.12.2010. The institution intimated the petitioner through its letter no. 5/2011 dated 17.01.2011, acknowledging

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that the petitioner has donated Rs. 35,500/- and accordingly was declared as donor member and his name was incorporated in the donor register of the College.

6. Immediately thereafter, the Bihar School Examination Board Affiliation (High Secondary) (Amendment) Regulation, 2013 was notified with a clear stipulation for constitution of the Governing Body and the Managing Committee of private unaided Higher Secondary Institutes, other than those established and run by the societies/trust. In pursuance thereof, the College, in question, was called upon by the Board to constitute its Governing Body and the Managing Committee. The new regulation provided for nomination of the President, being the first donor from amongst the three donors by rotation and the terms of the President being of three years. However, as during the interregnum period, Sri Murlidhar Singhania died on 23.12.2015, leaving behind Shri Shamsher Jung Bahadur Singh as sole trustee and he was appointed as President on 23.12.2015. The sole trustee simultaneously appointed the petitioner, as trustee of the said trust, and accordingly a resolution was passed.

7. On expiry of term of the erstwhile President, Shri Shamsher Jang Bahadur Singh, the Governing Body of the

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College was reconstituted on 13.09.2019, with Ranjan Kumar Singh as President and seemingly the College had sent the names of the three donors to the Board; (i) Shri Shamsher Jang Bahadur Singh; (ii) Ranjan Kumar Singh; and (iii) Ajit Kumar Singh (petitioner). The term of newly appointed President, Shri Ranjan Kumar Singh, came to an end on 12.09.2022, and the Governing Body stood dissolved. However, notwithstanding the aforesaid fact, the College issued advertisement for appointment of teaching and non-teaching employees. The petitioner sought an explanation from the College. However, the defunct Governing Body of the College, in collusion with Ranjan Kumar Singh, constituted a new Governing Body nominating himself as President. The Principal/Secretary of the College thereupon, vide letter no.84/22 dated 14.11.2022, sent a list of donors to the respondent nos. 2 and 3 for the purpose of constituting the Governing Body of the College.

8. The petitioner wrote letter to all the concerned, including the respondent nos. 2 and 3, intimating them about constitution of new Governing Body, but no action has been taken. However, on being informed that as per the list of the donor, Ranjan Kumar Singh was the second donor and after expiry of his term of three years, it was the turn of Ajit Kumar

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Singh (petitioner) being the third donor to be nominated as President, he vide his letter dated 21.11.2022, requested the respondent nos. 2 and 3 to approve the Governing Body duly constituted by the petitioner. The Principal/Secretary of the College also endorsed the aforesaid facts. The petitioner also, vide his letter dated 27.11.2022, requested the Principal/Secretary of the College to convene a meeting of the new Governing Body under 17A(1) of the Regulations, 2011 in order to complete the mandatory requirement. However, nothing has been done and he came to know that his name is included in the donor register only in personal capacity and not in the capacity as donor trustee, and therefore filed an application before the Secretary, Bihar School Examination Board to include his name in the capacity as trustee of the trust, which donated about seven acres of land for the College.

9. The respondent nos. 2 and 3 in response, vide letter dated 27.12.2022 asked the petitioner to furnish the requisite documents/proof of having donated Rs. 25,000/- or more before the year 2007, specifically before coming of Bihar Intermediate Education Council Repeal Act. The petitioner explained the entire facts and the law vide his letter dated 23.01.2023 and further sent the reminders. However, no

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decision has been taken at the level of respondent nos. 2 and 3, which necessitated filing of the present application, invoking the jurisdiction of this Court under Article 226 of the Constitution.

10. Mr. Ajit Kumar Singh (in person) submitted that once the sole trustee of the trust, which donated land ad-measuring seven acres for the establishment of the College, appointed the petitioner as the said trustee on 23.12.2015 itself, it was incumbent upon the College to substitute his name as trustee in place of Shri Murlidhar Singhania, who died on 23.12.2015. It is the petitioner, who has stepped into the shoes of trustee Shri Murlidhar Singhania and thus his name ought to be considered as a donor trustee. It is further argued that under Rule 8(a) of Rules, 1994, it was mandatory for every College to maintain a separate donor register, in which the names and address of all persons, who have donated at least Rs.25,000/- to the College, either in cash or in kind, had to be entered. Under Rule 8(b), the donor register shall be kept up-to-date. Further Rule 8(c) contemplates that all objections relating to entry and omission in donor register and relating to election shall be made in writing to the Secretary of the Council, and on such objection, the decision of the Chairman or the Council, if the matter is referred to the Council, shall be final. The Act 1992

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was repealed vide Repealing Act, 2007 and was re-enacted vide Bihar School Examination Board (Amendment) Act, 2007. However, since the prescriptions of Rules, 1994 enacted under the Act, 1992 was not inconsistent with the re-enacted provisions of the Bihar School Examination Board (Amendment) Act, 2007, rather in both the Act or Rules framed thereunder in the year 2007 had no provision regarding constitution of Governing Body/Managing Committee or for administration and management of Senior Secondary Schools other than Government Schools or Schools managed by religious or linguistic minority. The private Intermediate Institutions governed under the Rules, 1994 continued to be governed under the said Rules, even after repeal of the Act, 1992.

11. The Bihar School Examination Board Affiliation Bye-laws was brought in force on 14.07.2011, and the same was further amended vide Bihar School Examination Board Affiliation (High Secondary) Amendment Regulation, 2013, on being duly notified on 13.11.2013. In terms of the said amendment, the regulation is now termed as Bihar School Examination Board (Senior Secondary) Affiliation Regulation, 2011 (hereinafter referred to ‘as the Regulation, 2011’).

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Regulation, 2011 is said to be on the same subject matter as the Rules, 1994 also covers the Intermediate Institutes recognized under Section 39 or granted permission under Section 41 of the Act, 1992. It is further argued that the terms of the Regulation, 2011 has been taken from the Bihar Intermediate Education Council Rules, 1994. Thus, Section 27 of the Bihar and Orissa General Clauses Act, 1917, which has to be read into every Bihar Act, clearly provides that unless specifically excluded, in case of repeal and re-enactment, the Rules notified under the repealed Act is to continue, unless it is repugnant to the new Act or till it is superseded by subsequent enactment.

12. In view of the aforenoted premise, he would thus submit that Rules, 1994 continued to operate as if enacted in Bihar School Examination Board Act till 14.07.2011, when the same was repealed vide Regulation, 2011. Therefore, the petitioner, who had deposited the necessary amount on 23.12.2010 and the Principal of the College issued letter accordingly on 17.01.2011 acknowledging the petitioner as competent donor, is fit to be considered eligible donor under Regulation, 2011, despite he deposited the total requisite amount or more on 23.12.2010 after coming into force of Repealing Act, 2007 by which the Act,1992 was repealed.

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13. Per contra, Mr. Vipin Kumar, learned Advocate for the Bihar School Examination Board, submitted that on receipt of the representation filed by the petitioner, the respondent Board, vide letter No. 4152 dated 27.12.2022, has communicated to the petitioner relevant facts, *inter alia*, that the Principal of the College, in question, has been asked by the Board to submit a list of donor members with evidence for payment of donation amount of Rs. 25,000/- in cash or equivalent materials prior to the coming into force of 2007 Repealing Act, in view of the provision of Regulation, 2011. Referring thereto, it is submitted that as per the Rule, donor members are nominated as President, then only the nominated President constitutes the list of the members of Governing Body and Managing Committee of the College. There is no provision for successor of the original donor member in the Regulation, 2011. In the light of the aforesaid fact, therefore, the petitioner was directed to submit evidence of donation made by him prior to 2007; likewise, (i) evidence of donation of Rs. 25,000/-, (ii) Donor Cash Register, (iii) cash book and certified copy of the bank statements, land documents, if donated, so that the final decision can be taken in the matter of nomination of the petitioner, as Donor Chairman.

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14. It is also submitted that so far as the claim of the petitioner regarding renomination of Ranjan Kumar Singh, as Chairman of the Governing Body and the Managing Committee of the College is concerned, the same was done in terms of the provision of Regulation 17(3) of Regulations, 2011, which contemplates that a member can be renominated for another term, but a member cannot remain in office for more than two consecutive terms except ex-officio members and the members of Trust/Society of the School. In the light of the above provisions, he was renominated for the second tenure of three years vide Board's letter No. 2246 dated 28.07.2022.

15. It is finally argued that the College, in question, failed to produce any evidence in relation to donor, such as donor receipt, DCR (Donor Cash Register) etc., and there is no information regarding petitioner being the donor member of the College. Therefore, the claim of the petitioner for declaring him as being donor member is fit to be rejected.

16. Learned advocate for the State adopted the submissions advanced by the learned advocate for the Board.

17. This Court has meticulously heard Mr. Ajit Kumar Singh (in person) and the learned advocate for the State as well as the Board, as also perused the materials available on

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record and went through the relevant prescriptions of the Act and the Rules.

18. From the record, it appears that the petitioner vide receipt no. 5286, donated Rs. 15,000/- in favour of the College, and prior to that, the petitioner had earlier on various dates donated Rs. 20,500/- to the said college and thus it is undisputedly acknowledged by the Principal of the College through his letter dated 17.01.2011 (Annexure- P/2) that the name of the petitioner has been incorporated in the donor register of the College.

19. The question for consideration thus has arisen that as to whether when the Bihar Intermediate Education Council Act itself was repealed in the year 2007 and re-enacted vide Bihar School Examination Board (Amendment) Act, 2007, can Section 27 of the Bihar and Orissa General Clauses Act, 1917 protect the operation of Bihar Intermediate Education Council (Establishment of Colleges and Conduct of Examination) Rules, 1994, till it was specifically repealed vide Bihar School Examination Board Affiliation Bye-laws, 2011. Question has also been raised by the petitioner that once the trust, which had donated 7 acres of land for the College, in question, valued at more than Rs.5 lakhs, is entitled to be

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registered as donor, under Rule 8(a) of Rules, 1994, thence the successive trustee of a donor trust is not entitled to succeed as a donor under Rule 8(a)of the Rules, 1994.

20. On a bare perusal of Act, 1992, as also the Rules, 1994, which, *inter alia*, provided for establishment of institutions and conduct of examination of Intermediate (+2) standard, clearly lays down the rules contemplating procedures and requirement for establishment, permission, recognition, faculties of study and examination, evaluation and publication of result of intermediate (+2) institutions, besides provisions regarding constitution and functions of Governing Body to be constituted for Intermediate Institutions other than Government Institutions and Minority Institutions.

21. Rule 8 of 1994 Rules clearly provides for constitution of Governing Body for the management and administration of every recognized College, except Colleges managed and maintained by State Government or Colleges established and administered by religious and linguistic minority. Rule 8(a) further mandates that every College is to maintain a separate donor register, in which the names and addresses of all persons, who have donated at least Rs. 25,000/- to the College, either in cash or in kind, had to be entered.

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22. It is not in dispute that Act, 1992 was repealed vide Bihar Intermediate Education Council Repeal Act, 2007 and was re-enacted vide Bihar School Examination Board (Amendment) Act, 2007. On a plain reading of the preamble of the Repealing Act, 2007, it is stated that it was necessary with a view to restructure the Intermediate level education and the Bihar School Examination Board to implement the National Policy on Education, 1986 (as modified in the year 1992).

23. Under Section 4 of the Repealing Act, 2007, the assets and liabilities of the Bihar Intermediate Council was transferred and vested in Bihar School Examination Board and all the liabilities and obligations of the Council under any agreement or contract was deemed to be devolved in the Board. Section 7 of the Repealing Act, 2007 provides the saving clause and protects anything done or action taken under the Act, 1992.

24. It would be pertinent to take note of the effect of the Repealing Act in the light of Section 27 of the Bihar and Orissa General Clauses Act, which is pari materia to Section 24 of the General Clauses Act, 1897, which reads as follows:

> ***"Section 27: Continuation of orders, etc. issued under enactments repealed and re-enacted:-*** *Where any enactment is repealed and re-enacted by a Bihar and Orissa Act [or Bihar Act] [Inserted*

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by A.O. 1937.] with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, bye-law or form, made or issued under the repealed enactment, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, bye-law or form made or issued under the provisions so re-enacted."

25. After conjoint reading of the above-referred Act and the Rules, it is evident that though Act, 1992 was repealed vide the Repealing Act, 2007 and was re-enacted vide Bihar School Examination Board (Amendment) Act, 2007, however, no part of the Rules, 1994 enacted under the Act, 1992 is inconsistent with the re-enacted provisions of the Bihar School Examination Board (Amendment) Act, 2007. In fact, the Bihar School Examination Board Act and/or the Rules/Regulations framed thereunder at the relevant time in the year 2007, there had not been any provision regarding constitution of Governing Body/Managing Committee or for administration and management for Senior Secondary Schools other than Government Schools or Schools managed by religious or linguistic minority. The private Intermediate Institutions were

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being governed under the Rules, 1994 and the same continued to be governed under the said Rules even after repeal of Act, 1992.

26. Bihar School Examination Board Affiliation Bye-laws was duly published in the Bihar Extraordinary Gazette on 14.07.2011. Section 17 of the Bihar School Examination Board Act, 1952, and the same was further amended by Bihar School Examination Board Affiliation (Higher Secondary) Amendment Regulations, 2013, duly notified on 13.11.2013. By the said amendment, the regulation was duly notified as Bihar School Examination Board (Senior Secondary) Affiliation Regulation, 2011. Regulation, 2011 deals with the same subject matter as was being dealt with by Rules, 1994 and covered the Intermediate Institutes recognized under Section 39 or granted permission under Section 41 of the Act, 1992. Regulation 24 of 2011 Regulations, which deals with repeal and saving clause, further made it clear, inter alia, that such repeal shall not affect the previous operation of the said regulations or any notifications or orders made, or anything done, or action taken thereunder.

27. A careful consideration of the Regulation, 2011 vis-a-vis Rules, 1994, it is evident that Regulation 6 of

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Regulation, 2011 is similar to Rule 8(a) of Rules, 1994 and provides for constitution of Managing Committee for every School recognized for Secondary or Senior Secondary School, except School managed or maintained by State Government, which will have separate Managing Committee. The amended regulation brought in the year 2013 provides norms for constitution of Governing Body and the Managing Committee of Private Unaided Higher Secondary Institutes. Sub-regulation XXXII of Regulation 2 contemplates Governing Body/School Managing Committee means Governing Body/Managing Committee constituted under Sub-regulation 17A(1) and (2) of the Regulation, 2011, for the school. 17A(1) and 17A(2) were brought in force vide 2013 amendment. However, a proviso has been incorporated after Clause 17(2)(vii) that the provisions (regarding School Managing Committee) shall be applied with immediate effect and those which are affiliated to take remedial measures by suitable qualified substitutes within three years positively, which means that the Managing Committee/Governing Body constituted under Rules, 1994, having a term of three years, were free to continue and complete their term subject to taking of remedial measures.

28. From the reading of the Act and the Regulation,

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2011, it is crystal clear that the term “donor member” has not been defined therein, and in fact, it has been brought from the Bihar Intermediate Education Council (Establishment of Colleges and Conduct of Examination) Rules, 1994. The Rules, 1994 thus, in fact, were repealed only by the Regulation, 2011 published in the Bihar Extraordinary Gazette on 14.07.2011. Hence, under Section 27 of the Bihar & Orissa General Clauses Act, 1917, the Rules notified under the repealed Act shall continue unless it is repugnant to the new Act or till it is superseded by the subsequent enactment. What is evident therefrom that under the Rules 1994, the Governing Body was responsible for day-to-day management and administration of the Institute, so much so that in view of the functions assigned to the Governing Body under the Act, 1992 and the Rules, 1994. It is thus inconceivable that any Institute recognized under the Act, 1992 can function without a Governing Body.

29. This Court, in view of the discussions, above referred, finds substance in the submission of Mr. Ajit Kumar Singh (in person), that Rules, 1994 continued to operate till 14.07.2011, when the same was repealed vide Regulations, 2011. Therefore, in the considered opinion of this Court, the amount deposited by Ajit Kumar Singh (in person), on

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23.12.2010 and acknowledged by the Principal of the College under letter dated 17.01.2011 shall be deemed to be deposited in the light of the Rules, 1994 and thus the petitioner ought to be declared as a competent donor member and fit to be considered under Regulations, 2011. Accordingly, the respondent no.2 is directed to proceed in the matter and issue appropriate direction to the College concerned, in the light of the observation of the Court.

30. So far as the second issue with regard to declaration of the petitioner as successive trustee of donor trust in terms of Rule 8(a) of Rules, 1994 is concerned, since this Court is apprised that the name of the petitioner was recommended as donor trustee by one of the erstwhile trustee after the death of Murlidhar Singhania, and the petitioner had submitted appropriate application as well as the reminder, which are pending before the respondent nos. 2 and 3, this Court instead of delving into the aforesaid facts, direct the respondent no. 2 to consider the representation of the petitioner and pass appropriate order in accordance with law, preferably within a period of three months, from the date of receipt/production of a copy of this order.

31. However, the aforesaid direction to the respondent no. 2 is only confined in relation to the Donor

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Trustee of the Trust of the College, in question, and has nothing to do with the direction and observation through which the first issue has been resolved.

32. The writ petition is, accordingly, disposed of with the aforesaid direction.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.10.2026
Transmission Date	NA

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