

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9987 of 2025

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The Mohammadan Education Committee, Patna City, a society registered under the Societies Registration Act, 1860, having its registered office at campus of Oriental College, Guzri Bazar, Patna City, Patna-800008 through its Secretary, Sami Ahmad, Male, aged about 77 years, S/o Late Jameel Ahmad, R/o Shah Kamal Road, Bagh Kaloo Khaa, P.O. and P.S- Sampatchak, District- Patna-800008.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
2. The Director (Higher Education), Education Department, Government of Bihar, Vikash Bhawan, Bailey Road, Patna.
3. The Inspector General, (Registration), Department of Prohibition, Excise and Registration, Vikas Bhawan, Bailey Road, Patna.
4. The Deputy Inspector General of Registration, Bihar, Vikas Bhawan, Bailey Road, Patna.
5. The Assistant Inspector General, Patna Divison, District Registrar Office, 1st Floor, Chajjubag, Patna.
6. The District Magistrate, Patna, Patna Collectorate, Bankipore, Patna.
7. Najmul Afreen Shamsi Son of late S.A. Shamsi, R/o House No. 321, Road No. 3H, New Patliputra Colony, P.O. and P.S- Patliputra, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Adv. Ms.Anukriti Jaipuriyar, Adv.
For the State	:	Mr. Anuj Kumar, AC to GP 24
For the Pvt. Res.No. 7	:	Mr. Amit Shrivastava, Sr. Adv. Mr. Rashid Rais, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 27-01-2026

Heard Mr. Rajendra Narayan, learned Senior Advocate

with Ms. Anukriti Jaipuriyar, learned Advocate for the petitioner



and Mr. Amit Shrivastava, learned Senior Advocate with Mr. Rashid Rais, learned Advocate for the respondent no. 7. Mr. Anuj Kumar, learned Advocate for the State is also present.

2. The petitioner, a Society registered under the Societies Registration Act, 1860 through its Secretary, has approached this Court for the following reliefs:

(i) For issuance of writ in the nature of Certiorari for quashing the order contained in Memo No.339 dated 30.04.2025 passed by the Deputy Inspector General of Registration, Bihar whereby and whereunder it has held that the election conducted on 18.08.2024 of the executive committee, governing body or management committee of the Mohammedan Education Committee, Patna City, Patna (hereinafter to be referred as "the M.E.C."), Oriental College, and M.A.A. School will not be deemed to be valid and that the decisions taken in the meeting of the Executive Committee dated 02.07.2023 and 16.04.2024 should be confirmed by passing a resolution by the organization and issued directions for forming a new executive committee by appointing an observer through the District Magistrate, Patna under Rule 18 (iii) of the Bihar Society Regulation Rules, 2018 for conducting elections in the presence of an observer which is beyond its jurisdiction;

(ii) For holding and declaring that the election conducted on 18.08.2024 of the executive committee, governing body or management committee of the Mohammedan Education Committee, Patna City, Patna, Oriental College, and M.A.A. School is legally valid and due procedure of law has been followed.

(iii) For any other writ/writs, order/orders, directions for which the petitioner is found to be entitled in the facts and circumstances of the case."



3. While assailing the impugned order, Mr. Rajendra Narayan, learned Senior Advocate for the petitioner primarily presented the background of the case, inter alia, the Mohammadan Education Committee (in short 'MEC') is a Society to induce, encourage and popularize the study of modern science & technology and humanities among Muslim youths by providing easy conditions and conveniences to enable them to receive their education to establish schools and colleges for fulfillment of the above objectives and to raise and maintain enough funds to cover the capital needs and facilities intended to be provided and was established in the year 1984 having registration No. 62 of 1973-74 dated 13.07.1973. The MEC comprises of General Body where the members are added by nomination. Further there is an Executive Committee comprises of elected members from the General Body. The afore noted MEC runs two institutions. The Oriental College, Patna City, Patna having own Governing Body and further the MAA Senior Secondary School, Patna City, Patna comprising four office bearers.

4. The facts giving rise to the present application has briefly stated are that on 02.07.2023 an urgent meeting of the Executive Committee of the MEC was called in which



application of seven members were presented for induction as new members in the MEC. On 16.04.2024, the Executive Committee of the MEC, confirming the proceeding of the last meeting held on 02.07.2023 which was approved with few additions, i.e., out of the initial seven proposed names, six names were unanimously approved and confirmed. In the next meeting, the Executive Committee of the MEC confirmed the proceeding of the last meeting held on 16.04.2024. The respondent No. 7 participated in all the above proceedings as a member of the Executive Committee of the MEC. On 05.06.2024, a letter was issued by the Secretary, MEC for holding the Annual General Body Meeting of the MEC on 30.06.2024 along with the agenda for the meeting including agenda No. 7 to confirm the majority member recommendations of the Executive Committee meeting held on 16.04.2024 regarding inclusion of members. The Annual General Body Meeting of MEC was held on 30.06.2024 with respect to the agendas as enumerated in the notice which confirmed the proceedings of the Executive committee of MEC along with action taken report and resolved that out of thirteen vacancies, six names which were already approved unanimously by majority by the Executive Body of the MEC, were also



confirmed.

5. In the meanwhile, since three years tenure of office bearers of previous Executive Members of MEC, Governing Body of Oriental College & Management Committee of the MAA Senior Secondary School came to an end, so fresh election for these posts were required. Election was held on 18.08.2024. All posts of office bearers of the Executive Committee of MEC were elected uncontested. Similarly, all posts of office bearers of the Management Committee of the MAA Senior Secondary School were also elected uncontested. Only post of Secretary of Governing Body of Oriental College was contested and the respondent No. 7 lost by four votes. The results were communicated to all the members of the MEC but none has raised any dispute or put objections with regard to election till 29.11.2024, when for the first time the respondent No. 7 wrote a letter to the IG, Registration, Bihar to cancel the election and hold fresh election vide Annexure-P/11.

6. Awaiting no response by the side of IG, Registration, Bihar, the respondent No. 7 preferred CWJC No.19082 of 2024, which came to be disposed of with a direction to file fresh representation before the I.G., Registration, Bihar, who shall pass a reasoned and speaking



order, in accordance with law, after hearing the parties within four weeks. On 21.03.2025, a fresh representation was filed by the respondent No. 7 where he raised dispute with regard to induction of six new members in the MEC and their subsequent induction as office bearers and members in the MEC and other two institutions, on the ground that Annual General Body meeting of MEC had never ratified/confirmed the induction of six new members, which was required as per the Bye laws of the MEC. The petitioner also submitted its reply in detail controverting each and every ground raised by the respondent No. 7, nonetheless the impugned order dated 30.04.2025 came to be passed by the Deputy Inspector General, Registration.

7. Learned Senior Advocate adverting to the aforesaid facts submitted that the DIG, Registration has completely failed to consider that the Rule 18 (iii) of the Bihar Societies Registration Rules, 2018 (in short 'Rules, 2018') deals with only dispute between two Governing Bodies, which is not the fact in the present case where one disgruntled member who has lost the election and facing show cause notice by the MEC raised an objection against the duly elected bodies of the MEC. However, the respondent DIG, Registration acceded his jurisdiction in holding the election of the Executive Committee



of the MEC, the Management Committee of the MAA Senior Secondary School and the Governing Body of the College as invalid, irrespective of the fact that all the posts of office bearers in the MEC as well as the MAA Senior Secondary School and the Oriental College were elected as uncontested, except the post of Secretary of the Governing Body of the Oriental College in which election the petitioner lost by four votes. It is further submitted that the impugned order is further bad in the eyes of law as well as on facts that there is no provision of ratification by Annual General Body of MEC for induction of new members. Only payment of fees is required under Section 20 of the Bye laws of the MEC which the newly elected member has paid. The Annual General Body Meeting of the MEC was held on 30.06.2024 with respect to the agendas as enumerated in the notice (Annexure-P/5) and subsequently confirmed the proceeding of the Executive Committee of the MEC along with action take report, and states that out of 13 vacancies, six names which were already approved unanimously by majority by the Executive Committee of the MEC were confirmed vide Anneuxre-P/6.

8. The respondent No. 7 participated in all the proceedings as a member of the Executive Committee of the



MEC and unanimously approved the induction of six new members but has never objected to their induction. The revised list of the newly elected members was personally sent to all the members of the MEC including respondent No. 7 to ensure wider publication. Even on receipt thereof, no objection has been raised. The election was held on 18.08.2024 even at that time the respondent No. 7 did not raise any objection to inclusion of the new members and when they cast their votes in the election. The respondent No. 7 participated in the election and once he lost election, he started raising an objection belatedly. Thus, the principle of estoppel applies. For the first time, the respondent No. 7 raised objection against the election on 29.11.2024. Moreover, CWJC No. 19082 of 2024 was disposed of merely with a direction to the State respondent to dispose of the representation after hearing both the parties, but bare perusal of the impugned order it appears that not a single submission of the petitioner has been taken note of and the Deputy Inspector General, Registration travelled beyond his jurisdiction and held all the elections invalid by giving a further direction for holding fresh election in presence of the observer appointed by the District Magistrate, Patna.

9. The impugned order is further bad for the reason



that there was a direction upon the Inspector General, Registration, Bihar to consider the representation and pass a reasoned and speaking order, after hearing the parties, nonetheless the impugned order has been passed by the Deputy Inspector General, Registration. Though later on approval has been taken by the competent authority but that will not make the order sustainable.

10. On the other hand, Mr. Amit Shrivastava, learned Senior Advocate with Mr. Rashid Rais, learned Advocate representing the respondent no. 7 refuted all the contentions and made a preliminary objection with regard to the maintainability of the writ petition on various grounds, *inter alia*, the writ petitioner is admittedly a Society registered under the Societies Registration Act and as such it is not a “State” in terms of the Article 12 of Constitution of India. Secondly, the foundational facts upon which the relief prayed for by the writ petitioner are with regard to the election process and thus Article 226 of the Constitution is not a fora/remedy for any matter pertaining to election process of registered society. To support the aforesaid contention, heavy reliance has been placed on a coordinate Bench decision of this Court in the case of ***Ratnesh Prasad Singh vs. the State of Bihar & Ors. [2024(4) PLJR 68]***. It is



further contended that since there is a provision of appeal against the order impugned before the Member, Board of Revenue under Rule 22(ii) of the Rules, 2018, hence a petition under Article 226 of the Constitution should not be entertained. To strengthen his argument reliance has also been placed on a recent judgment of the Hon'ble Supreme Court in the case of ***Leelavathi N. & Ors. vs. The State of Karnataka & Ors. [2025 INSC 1242]***.

11. Besides the afore noted submission, to bolster the objection with regard to maintainability of the writ petition, learned Senior Advocate for the respondent No. 7 has submitted that the order impugned has been passed in accordance with law and in deference to the order passed in CWJC No. 19082 of 2024. It is submitted that a bare perusal of Section 18(iii) of the Rules, 2018 it fully empowers the authorities to appoint an observer. It is well recognized tenet of election process that it must be transparent and fair. It is indeed shocking to the conscience that the writ petitioner is opposed to the idea of free, fair and transparent election. The writ petitioner along with other members of the Society who had contested the election, which have now been set aside by the impugned order, and thereafter have also regularly participated in the inquiries



conducted by the AIG, Registration, Government of Bihar, Patna, they cannot approbate and reprobate. Having participated in the proceeding, in fact the petitioners are precluded to raise issue of jurisdiction in view of the well recognized principle of waiver and acquiescence.

12. A counter affidavit has also been filed on behalf of respondent Nos. 3 to 6. While making submission in support of the impugned order, it is submitted that the respondent No. 7 had approached before the I.G., Registration by filing a detailed representation on 29.11.2024 alleging that no record of meeting through which newly members were inducted was made public and the election held on 18.08.2024 was not in accordance with the Bye laws of the MEC. It is further submitted that, in fact, the MEC had filed an application on 16.11.2023 for renewal of the Executive Committee of the MEC along with the list of the office bearers whereupon the answering respondents vide letter No. 380 dated 16.05.2024 directed the MEC to provide certain details including the register of all the general meetings of the Committee convened, date of joining and of the oath of the office bearers. However, the same were not provided. Thus the approval of the Executive Committee remained pending. In the meanwhile, the respondent No. 7 challenged the result of the



election. The entire matter was considered in the light of Rule 18(iii) of the Rules, 2018 and on being found serious irregularities in the election and the proceedings conducted by the MEC, reasoned order has been passed by holding all the elections conducted by the MEC to be invalid and directed for fresh election in presence of an observer. The impugned order has been approved by the Inspector General, Registration. The petitioner was also given an appropriate opportunity and has also filed detailed reply to the allegation. Since there is a dispute between two rival bodies and further it was found that the decisions in the meeting were taken not in consonance with the rules; there is no infirmity in the impugned order.

13. This Court has heard the learned Senior Advocate/ Advocate for the respective parties at length and also perused the materials available on record. First, this Court address the primary objection as to whether the present writ petition is maintainable.

14. Admittedly the present writ petition is filed by a Society against the impugned order passed by the Deputy Inspector General, Registration, Bihar in pursuance of the order passed by this Court in CWJC No.19082 of 2024. This Court is not oblivious of the fact that earlier it is the respondent No. 7,



who had moved before this Court by filing the afore noted CWJC No. 19082 of 2024 seeking quashing of the result of the election of MEC by which the elected office bearers and the Members of the Governing Body of the Oriental College, Patna City have been nominated. The petitioner is not seeking issuance of any writ against the Society rather he is aggrieved with the order passed by the State authorities, who is said to have acceded his jurisdiction by passing the impugned order. Hence, even if the petitioner is a private body and a Society, if he is aggrieved with the order/action of the State authorities, he is said to be an aggrieved person having locus to challenge the same by invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, if it is ultra vires, violates principles of natural justice or malafide. So far the decision rendered by the coordinate Bench of this Court in the case of ***Ratnesh Prasad Singh*** (supra) is concerned, the challenge in the said writ petition was the order dated 12.09.2023 passed by the Deputy Development Commissioner Siwan-cum-Vice President of the Indian Red Cross Society, Siwan. The Court having taken note of series of decisions passed by the Apex Court as well as the High Courts, has held that the function of the Red Cross Society is not in the nature of



public duty and purely an impartial voluntary organization. Hence, the present writ petition against the Society is held to be not maintainable giving liberty to the petitioner to go to Civil Court or to avail any appropriate remedy that may be available to him. This is not the case in hand. No relief has been prayed against the Society rather the Society is aggrieved with the action of the respondent authorities of the Department of Prohibition, Excise and Registration. Hence, the order passed by the learned coordinate Bench hereinabove does not affect the maintainability of the writ petition.

15. Now coming to the additional challenge with regard to the maintainability of the writ petition in view of the availability of the alternative remedy under Rule 22(ii) of the Rules, 2018; There is no dispute that the High Court should not issue, in general, prerogative writ when alternative remedy is available. However, it is well settled and as has been reinforced by the Hon'ble Apex Court, in the case of ***Tamil Nadu Cements Corporation Ltd. vs. Micro and Small Enterprises Facilitation Council &Anr. [(2025) 4 SCC 1]*** that the access to High Court by way of a writ petition under Article 226 of the Constitution is not a constitutional right but also a part of the basic structure. It is available to every citizen whenever there is violation of their



constitutional rights or even statutory rights. Rule of exclusion of writ jurisdiction in case of availability of an alternative remedy is rather a rule of discretion and not a rule of compulsion. The power to issue prerogative writ under Article 226 of the Constitution is plenary in nature and the same is not limited by any provision of the Constitution and cannot be restricted or circumscribed by Statute. The Supreme Court in ***Whirlpool Corporation vs Registrar Of Trade Marks, Mumbai & Ors [(1998) 8 SCC 1]*** held that under Article 226 of the Constitution, the High Court has discretion in regard to the matter entertaining the writ petition and the existence of alternative remedy has been consistently held by this Court not to operate as a bar in three contingencies (i) writ petition has been filed for enforcement of any of the fundamental rights protected by Part-III of the Constitution, (ii) there has been a violation of the principles of natural justice and, (iii) the order or proceedings are wholly without jurisdiction or *vires* of an Act is challenged.

16. The reliance placed by the learned Senior Advocate representing on behalf of the respondent No. 7 on a decision rendered in ***Leelavathi N.*** (supra) while reiterating and reaffirming the earlier orders have concluded that on careful



perusal of the judgments leads us to the conclusion that an efficacious remedy is available, the High Court should not entertain a writ petition under Article 226 of the Constitution in matters falling squarely within the domain of the Tribunals. However, with a caveat as noted in para-37 of the said judgment, which is reproduced hereinbelow:

“Nevertheless, a writ petition under Article 226 may still be maintainable notwithstanding the existence of such an alternative remedy in exceptional circumstances, including the enforcement of fundamental rights guaranteed under Part III of the Constitution; instances of ultra vires or illegal exercise of power by a statutory authority; violation of the principles of natural justice; or where the vires of the parent legislation itself is under challenge. While these exceptions have been carved out and reiterated by this Court in a catena of decisions, the facts of the present case do not fall within any of these exceptions so as to warrant the maintainability of the writ petitions before the High Court.”

Emphasis Supplied

17. Having conscious of the fact the petitioner has alternative remedy under Rule 22(ii) of the Rules, 2018, this Court finds that since the concerned respondent has illegally exercised his power and acceded his jurisdiction in passing the impugned order, besides caused violation of the principles of natural justice; the present writ petition is being entertained

18. Before proceeding further it would be pertinent to quote Rule 18 of the Rules, 2018 which reads as follows:

“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. Bare reading of the Rule 18 it is manifest that the jurisdiction of the I.G., Registration may be invoked if there is a dispute arising out of existence of two rival governing and/or executive bodies for being a rightful managing body of the Society, then the I.G. may direct for enquiry or invite all the rival bodies and hear the matter in presence or cause re-election of the Governing and/or executive body to be done in presence of an Observer.

20. In the case in hand, there is no dispute with regard to the two rival governing and/or executive bodies, rather it is a case where the respondent No. 7 being a member of the MEC had participated in all the proceedings including the proceeding in which the new members were inducted but he never made any protest with regard to their induction in any meeting/proceeding, rather participated in the election for the post of Secretary of the Governing Body of the Oriental



College. This fact is also not in dispute that all posts of office bearers of the Executive Committee of the MEC as well as the Management Committee of MAA Senior Secondary School were nominated uncontested and no challenge to their nominations and any kind of allegation has ever been made. Once the respondent No. 7 had lost the election on the post of Secretary of the Governing Body of the Oriental College his challenge ought and in fact was confined to the afore noted post and accordingly he filed his representation on 29.11.2024. Since no action was taken by the concerned authority, he filed CWJC No. 19082 of 2024 seeking quashing of the result of the election of the MEC by which the elected office bearers and the members of the Governing Body of the Oriental College, Patna City have been nominated. The aforesaid writ petition was disposed of taking note of the fact that the petitioner had already filed representation before the I.G., Registration, Bihar but till date no order has been passed, hence a direction was given to the petitioner to file fresh representation before the respondent No. 3, who would be obliged to pass a reasoned and speaking order in accordance with law, after hearing the parties within four weeks thereafter.

21. This Court has also perused the impugned order.



Besides the fact, there was specific direction under order dated 17.03.2025 in CWJC No. 19082 of 2024 to the Inspector General, Registration (Bihar) to hear the parties and pass a reasoned order but the same has not been heard by him rather it was heard by the Deputy I.G., Registration and he passed the order after getting approval of the competent authority. Hence this Court is of the view that there is no proper application of mind of the authority who was obligated to hear and pass the order. Further, there is no discussion with regard to the objection raised by the petitioner and to reply filed by the petitioner of the respondent No. 7, which the concerned respondent was obliged to consider in the light of the order of this Court passed in CWJC No. 19082 of 2024.

22. The finding of the respondent DIG, Registration that in the institution there is an internal dispute and both of them are making allegation and counter allegation, hence took the shelter of Rule 18(iii) of Rules, 2018, is not based upon any material rather the election of Governing Body of the Oriental College was only under challenge. Hence, the impugned order came to be passed by the Deputy I.G. Registration would certainly amount to acceding the jurisdiction.

23. Further before passing of the impugned order, the



petitioner has neither been show caused or given opportunity with respect to election of other office bearers of the Executive Committee of the MEC and the Management Committee of MAA Senior Secondary School nor the elected or nominated members have been noticed; all of them have been deprived from the opportunity to rebut the allegation of alleged irregularities in those elections. Once the members have been elected uncontested, right has been accrued in their favour, which cannot be curtailed and withdrawn without giving any proper opportunity of hearing to them. Hence, in the opinion of this Court, the impugned order suffers from complete violation of the principles of natural justice.

24. For all these reasons, this Court finds substance in the writ petition. Accordingly, the impugned order as contained in Memo No. 339 dated 30.04.2025 passed by the Deputy Inspector General of Registration, Bihar stands set aside. However, if the respondent No. 7 is aggrieved with the result of his election, he may avail appropriate remedy available under law.

25. It is made clear that the concerned respondents shall continue with the proceeding pertaining to approval of the Executive Committee of the MEC, in accordance with law.



26. The writ petition stands allowed.
27. There shall be no order as to cost.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.02.2026
Transmission Date	

