

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20406 of 2018

Md. Alauddin Bismil

... .. Petitioner/s

Versus

The State Of Bihar and Ors

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rashid Izhar, Advocate Mr. Md. Anis Akhtar, Advocate
For the Respondent/s	:	Mr. Shashi Shekhar Tiwary, AC to AAG 15
For the Madarsa Board	:	Md. Aslam Ansari, Advocate
For Intervenor	:	Md. Ziaul Qumar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

7 24-01-2023

On the basis of a forged communication dated 16.12.2013, bearing Memo No.2712 (Annexure-1, page-19 of the writ petition), certain educational institutions falling within the ambit and scope of Section 2(c) of the Bihar State Madarsa Education Board Act, 1981 (hereinafter referred to as Mardarsa Act) were granted financial aid in terms of the Government Resolution No. 1090 dated 29.11.1980.

Inviting attention of such fact, the petitioner Md. Alauddin Bismil, filed the instant petition seeking certain



directions.

It is not in dispute that it was only on account of such an endeavour and orders passed by this Court that a fact finding enquiry was initiated by the Government by constituting a committee of three members vide order dated 01.07.2020 (Annexure-C, page-16 of the counter affidavit dated 28.08.2020 filed by Md. Tasnimur Rahman, Special Director, Secondary Education, Education Department, Government of Bihar), which, in turn, submitted its report dated 17.07.2020 finding the letter, leading to the grant of aid by the Government, to be forged, and, as such, further recommending withdrawal of the same qua 88 educational institutions confined only in one district i.e. Sitamarhi of Bihar, as also registering an F.I.R. in connection therewith.

Subsequent orders passed by this Court, as is also evident from the affidavit dated 16.12.2022 filed by Shri Dipak Kumar Singh, Additional Chief Secretary, Education Department, Government of Bihar, has resulted into the constitution of yet another three member committee by the Government for verifying the factual status of all such 609 educational institutions situate in other districts of Bihar, who are in receipt of grants-in-aid in terms of and under the



resolutions passed by the State. Also the statutory provisions i.e. the Madarsa Act, stands fully complied with or not is required to be ascertained and examined.

Noticeably, vide communication dated 17.09.2021, (annexed with the affidavit of Shri Dipak Kumar Singh), the Senior Deputy Collector nominated by the District Magistrates of each one of the districts i.e. Khagaria, Banka, Begusarai, Katihar, Madhubani, Muzaffarpur, Kishanganj, Sheohar, Siwan, Bhagalpur, West Champaran, Patna, Purnea, East Champaran, Rohtas, Sheikhpura, Samastipur, Saharsa, Sitamarhi, Saran, Supaul, Darbhanga, Vaishali, Araria, Aurangabad, Gaya and Gopalganj is heading the committee with the District Education Officer and Block Education Officer of each one of the respective districts as its members.

Well, this was way back in September, 2021.

Surprisingly, the Government, be it for whatever reason, is shying away from placing on record the result of enquiry conducted by these committees.

In defense, it is stated that the Additional Chief Secretary, Education Department, Government of Bihar has



sent reminders to the District Magistrate(s), but then this is no explanation for not getting the enquiry completed within a time-bound period, more so when the Government itself, way back in the year 2020 cancelled the grant in relation to at least 88 educational institutions and that too in district Sitamarhi alone.

It has also come on record that an F.I.R. stands registered. Well, what is the outcome of such action is also not made known to the Court. Why no action was taken against the erring officers/officials, who, at the first instance, without verifying the factual matrix allowed public money to be released/disbursed by way of a grant, at least to 88 such educational institutions remains unexplained.

Under these circumstances, we issue the following directions:

(a) The Additional Chief Secretary, Education Department, Government of Bihar shall forthwith convene a meeting of all the Chairmen of the Three Member Committees constituted vide communication dated 17.09.2021, with a further direction to ensure completion of enquiry on expeditious basis and not later than four weeks



from today;

(b) Till such time individual enquiry with respect to entitlement and compliance of statutory provisions of law and Government resolutions is not concluded, the amount by way of grants-in-aid shall not be released in favour of 609 educational institutions;

(c) The Director General of Police, Bihar shall ensure that investigation in relation to the F.I.R. already registered is expedited and the latest status report is placed on record through his personal affidavit. This he shall positively do within next two weeks;

(d) We clarify that the pendency of the present petition shall not come in the way of the authorities taking appropriate action in accordance with law, be it of cancelling the registration of the educational institutions; stopping the grant and/or initiating disciplinary proceedings against erring officer(s) and official(s);

(e) Additional Chief Secretary, Education Department, Government of Bihar shall ensure that no child suffers only as a result of closure of such educational institution(s), be it on account of non-release of grants-in-aid



or non-compliance of the statutory provisions. Every child upto a particular age has a constitutional and statutory right of being educated. Hence, it shall be ensured that with the closure of any institution, education of the children is not affected and that they are admitted in any government or other educational institution closer to the place of residence of the child.

(f) We notice that the Government has been releasing huge funds in favour of the educational institutions since the year 2013 and it is only on account of the directions issued by this Court, pursuant to the filing of the present petition by the petitioner, that the Government has taken remedial measures. Hence, we are hopeful that all further action shall be expedited and appropriate action taken in accordance with law. We may also remind the Government, as is so alleged by the petitioner, that, perhaps, a detailed enquiry needs to be conducted by a high level committee for there are more than 2459 educational institutions which are registered under the Madarsa Act. Additional Chief Secretary, Education Department, Government of Bihar shall file his personal affidavit indicating whether these educational institutions are fulfilling the criteria; have requisite



infrastructure as stipulated under law and more specifically under the Madarsa Act and the regulations framed thereunder and the remedial action, if required, taken or not. He shall file his personal affidavit indicating the steps taken within next two weeks.

List on 14.02.2023.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

K.C.Jha/-DKS

U			
---	--	--	--

