

(1998) 04 PAT CK 0051
In the Patna High Court
Case No : C.W.J.C. No. 4159 of 1988

Sachidanand Mishra and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-04-1998

Acts Referred:

Citation : (2000) 3 PLJR 71

Hon'ble Judges : J.N. Dubey, J;A.N. Trivedi, J

Bench : Division Bench

Final Decision : Allowed

Judgement

J.N. Dubey and Ashish N. Trivedi, JJ.—In view of the order dated 22.5.1996 passed in CWJC No. 4159 of 1988, these Writ Petitions are being decided by a common order.

2. According to Sachidanand Mishra and another, Petitioners of CWJC No. 4159 of 1988, the school of which he is the headmaster is the real Ramanujiya Sanskrit Madhyamic Vidyalaya, Nawahi while according to Ramadhar Thakur and others, Petitioners of CWJC No. 3373 of 1994, the institution of which he is the headmaster is Ramanujiya Sanskrit Madhyamic Vidyalaya, Nawahi Math (Jhula Bawan).

3. The point for determination in these two writ petitions is as to which of the two institutions is the real school entitled for recognition by the State Government for the purpose of payment of salary to the teaching and non-teaching staff.

4. Sachidanand Mishra and others have filed CWJC No. 4159 of 1988 for quashing the order dated 27.5.1988 of the Respondent No. 4, the Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University (hereinafter called the University) declaring the institution of which Ramadhar Thakur is the headmaster as the real Ramanujiya Sanskrit Madhyamic Vidyalaya. On the other hand, Ramadhar Thakur and others have filed CWJC No. 3373 of 1994 against

the order dated 16.3.1994 of the State Government declaring that the institution of which Sachidanand Mishra is the headmaster is the real Ramanujiya Sanskrit Madhyamic Vidyalaya. Thus, according to the order of the Vice Chancellor of the University the School of Ramadhar Thakur is the real Ramanujiya Sanskrit Madhyamic Vidyalaya while according to the order of the State Government the school of Sachidanand Mishra is the real Ramanujiya Sanskrit Madhyamic Vidyalaya.

5. Heard the learned Counsel for the parties and perused the record.

6. In our opinion, both the order of Vice Chancellor of the University and the State Government are liable to be quashed on the ground that they have been passed without considering the entire material on record. The Vice Chancellor of the University has decided the case in favour of Ramadhar Thakur merely on the basis of Letter No. 780, dated 25.10.1986 of the Special Director, Secondary Education, Bihar which according to the learned Counsel for the Petitioners was neither brought on the record nor was shown to him during argument. On the other hand, the order of the State Government in favour of Sachidanand Mishra does not contain any reason whatsoever.

7. Now, it has to be seen what relief should be granted to the parties in the facts and circumstances of this case. In normal course, after quashing the orders of both the Vice Chancellor and the State Government we would have directed them to decide the matter afresh by speaking orders in accordance with law but in our opinion, no useful purpose will be served by directing two different authorities to decide the same dispute as there will always be the possibility of getting two conflicting orders on the same subject matter. Therefore, in our opinion, it will be appropriate that after quashing both the orders the State Government which admittedly is the final authority in the matter be directed to decide the dispute of the parties in accordance with law.

8. In the result, both the Writ Petitions succeed and are allowed. The order dated 27.5.1988 of the Vice Chancellor of the University and the order dated 16.3.1994 of the State Government are quashed and the State Government is directed to decide the matter afresh in accordance with law by a speaking order after affording the parties proper opportunity of leading evidence and hearing within four months from the date of production of a certified copy of this order on the State Government.

9. No order as to costs.