

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8992 of 2015

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1. Alok Kumar Tiwari, S/o Shashi Bhushan Tiwari, Resident of Village-Khajuriya, P.S. Gobindganj, District- East Champaran.
 2. Jitendra Kumar, S/o Mahendra Prasad Mandal, Resident of Mohalla/Village- Majhua, P.S. Forbesganj, District- Araria.
 3. Ranjeet Kumar, S/o Kishore Shaw, Resident of Village+P.O. Ghostava, P.S. Silao, District- Nalanda.
 4. Pankaj Kumar Choudhary, S/o Late Shri Shivshankar Prasad Choudhary, Resident of Village- Nehaluchak, P.S. Nawada-805110, Distt- Nawada.
 5. Nilmani Choudhary, S/o Ramnath Choudhary, At + P.O. Lalpur, P.S. Pipra, District- Supaul, Pin- 852109.
 6. Abhay Kumar, S/o Shankar Choudhary, Vill + P.O. Sarsar, Distt- Siwan (Bihar), Pin Code- 841226.
 7. Pushkar, S/o Late Chandreshwar Prasad Singh, At + P.O. Jehanabad (Raza Bazar), District- Jehanabad, Pinn Code-804408.
 8. Ravi Shankar Kumar, S/o Ram Naresh Prasad, At- Purankama, P.O. + P.S. + District- Sheikhpura, Pin Code-811105.
 9. Abhishek Deep, S/o Upendra Prasad Singh, Vill+P.O.+P.S. Medini Chowki, District- Lakhisarai.
 10. Arun Kumar, S/o Sri Ram Bahadur Mahto, Resident of Village-Simraha, P.O. Sakarpura, P.S. Hasanpur, District- Samastipur, Pin Code-848205.
 11. Mukesh Kumar Jha, S/o Sunil Kumar Jha, Resident of Village-Laxmipur, P.S. Bhargama, District- Araria(Bihar), Pin Code- 854202.
 12. Nikhil Raj, S/o Subodh Kumar Vidyarthi, Village+P.O. Kapsiya, P.S. Saurbazar, District- Saharsa, Pin-852107.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Bihar, Patna.
2. The Chairman, Bihar Combined Entrance Competitive Examination Board, Patna.
3. The Secretary, Bihar Combined Entrance Competitive Examination Board, Patna.
4. The Examination Controller, Bihar Combined Entrance Competitive Examination Board, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Singh
Mr. Ajay Kumar Tiwari
For the B.C.E.C.E. : Mr. Vikas Kumar
For the Respondent/s : Ms. Nutan Kumari Sharma, A.C. to G.A.-9

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR
TRIPATHI
ORAL ORDER

5 08-10-2015

A set of the petitioners filed the writ application for cancellation of the Mains Examination conducted by the Bihar Combined Entrance Competitive Examination Board because according to the petitioners unfair practice has been adopted en masse. The candidates had used technology to cheat. Since the purity of the examination had not been maintained for admission in Medical Course, the unfair practice has given unfair advantage to certain candidates, which is a good ground for cancelling the examination in toto as well as holding of a fresh examination.

In support of the above submissions and contentions, the petitioners have annexed copies of the F.I.Rs. instituted against the candidates caught cheating or using electronic devices. They have also annexed newspaper cuttings, which support the allegation of the petitioners.

The alarming picture, which was painted by the petitioners' counsel with regard to rampant use of unfair means, is nothing but an over statement. There is no foolproof system, which can prevent a dishonest candidate from indulging in some kind of cheating but an aberration here and there cannot form the basis or ground for a nulling the entire examination when thousands of students participated and have competed successfully.



The Counsel for the petitioners when confronted with the facts and figures keeping in mind the number of students who participated in the examination across the State and the number of cases reported of cheating, gives up his claim for cancellation of the examination. He now attacks the results this time on the ground that some of the questions and answers of Biology and Chemistry are wrong. He has cited instances in his I.A. No.8005 of 2015 and a further prayer has been made to direct the D.G.P of Bihar for constitution of a Special Investigation Team for investigation into the various F.I.Rs. instituted against certain candidates.

I.A. No.8005 of 2015 is allowed.

After the interlocutory application was filed, the Court gave an opportunity to the counsel for the Examination Board to respond by yet another affidavit. Counter affidavit to the I.A. has been served upon the petitioners' counsel and filed.

Reading of the counter affidavit to the I.A. would indicate that there was some variance on the meeting of minds with regard to correctness of certain questions which have been pointed out by the petitioners in terms of model answers provided by the question setters. Opinion of the experts was obtained on the basis of objections received from various candidates, after the

standard answers used for evaluation was placed on the Website, for this purpose.

Paragraph No.4 of the counter affidavit to the I.A. crystalises the issue with regard to the four wrong questions or answers pointed out by the petitioners in Biology and Chemistry. The respondent has further explained the methodology which they have adopted in evaluation based on the experts' opinion and marks which have been awarded across the board in such cases, even to such candidates who had given either of the correct answers which was pointed out to be correct by the experts.

From a detailed analysis of the answers to the questions attempted by some of these petitioners have also been explained from paragraph Nos. 8 to 14.

Reading of the said paragraphs of the counter affidavit also does not enthuse this Court that a case is made out either for a re-evaluation or for the re-assessment of the answer-sheets of the candidates whose results have already been announced and in fact now admission after counseling has already been completed on 30th September, 2015.

It is one of those writ applications which have been filed by candidates, who have failed to qualify. It is a desperate measure to paint a picture more gloomy than it actually is. The

ground reality is otherwise. Neither a case for cancellation of the results or holding of a fresh examination is warranted nor any re-evaluation on the basis of the plea taken in the interlocutory application is needed in view of the explanations given in paragraph No.4 as well as paragraph No. 8 onwards of the counter affidavit of the Examination Board.

The writ application is, therefore, required to be dismissed being devoid of merit and is dismissed as such.

Before parting, however, the Court gives a direction to the Director General of Police, Bihar to ensure that a direction be given upon the Investigating Officers to investigate the matter by giving due priority and take it to its logical end. If such investigations are difficult to be handled by the respective police stations, may be a team can be constituted to do the special investigation but such a discretion is vested in the Director General of Police who will evaluate the situation after getting proper inputs and on monitoring of those investigations made so far with regard to the F.I.Rs. registered against candidates whose details are given in this writ application.

V.P.Sinha/-

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(Ajay Kumar Tripathi, J)