

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 20358 of 2013

Divyendra Kumar Son Of Dwijendra Roy Resident Of Nakhas, Mithakuan, P.S - Hajipur Nagar, District - Vaishali

..... Petitioner/s

Versus

1. The State Of Bihar , Through The Chief Secretary, Government Of Bihar, Patna
2. The Principal Secretary, Department Of Health, Government Of Bihar, Patna
3. Bihar Combined Entrance Competitive Examination Board, Patna Through Its Secretary, IAS Association Building, Near Patna Airport Patna - 14
4. The Secretary, Bihar Combined Entrance Competitive Examination Board, IAS Association Building, Near Patna Airport Patna 14
5. The Controller Of Examination, Bihar Combined Entrance Competitive Examination Board, IAS Association Building, Near Patna Airport Patna 14
6. The Principal, Darbhanga Medical College, Laheriasarai
7. Police Laboratory C.I.D. Bihar Bailey Road, Patna Through Its Director
8. Incharge Director, Police Laboratory C.I.D. Bihar Patna - 23
9. Dr. Shyam Kumar Singh State Examiner Of Questioned Documents Police Laboratory C.I.D. Bihar Patna - 23
10. Raju Chaudhary State Examiner Of Questioned Documents Police Laboratory C.I.D. Bihar Patna - 23

..... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Madhu Prasun
		Mr. Sudarshan Kumar
For the Respondent/s	:	Mr. Rajiv Kumar Singh
For the BCEC	:	Mr. Vikash Kumar

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 24-11-2015

24.11.2015

Heard learned counsel for the parties.

The order, contained in Annexure-3, dated 16.09.2013 is under challenge in the present writ application. By virtue of this order, the provisional allotment of admission in M.B.B.S. Course at Darbhanga Medical College, Laheriasarai has been withdrawn or annulled, meaning thereby that the petitioner can no

longer continue his studies in the M.B.B.S. course, despite having completed almost three years in the same said stream.

The basic facts are not in dispute that the petitioner sat for the examination conducted by the Bihar Combined Entrance Competitive Examination Board for admission into an M.B.B.S. Course. Petitioner qualified in the written examination. Based on his merit position in the counseling he was allotted Darbhanga Medical College to pursue his studies. At the time of counseling, however, the officials noticed variation in the hand writing of the passage written down by the petitioner viz-a-viz the answer-sheet. Based on such an opinion or doubt, the matter was referred to the Forensic Science Laboratory for a scientific opinion that whether it is a case of impersonation used during the course of the entrance examination. The Court cannot be oblivious of the fact that cases of impersonation, cheating etc. in such examinations have become rampant.

Petitioner was provisionally allowed to pursue his studies and a conditional order of admission was granted, which clearly indicated that the final status or his continuance in the course will be dependant upon the outcome of such an exercise done by the Forensic

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Science Laboratory.

No doubt, there has been a delay of almost three years in providing opinion by the Forensic Science Laboratory, but now their opinion has come against the petitioner.

A detailed counter affidavit with their opinion has been annexed and filed and the same indicates the reasons for coming to a conclusion that the person, who may have sat for the entrance examination, may not be the person, who came for counseling.

Armed with such an opinion or report, the Controller of Examination of the Bihar Combined Entrance Competitive Examination Board after giving an opportunity of hearing to the petitioner has passed the impugned order, dated 16.09.2013, which is annexed as Annexure-3 to the writ application.

The first limb of argument of the petitioner is that the petitioner has pursued his studies for three years and only one year course is left. Petitioner has performed well in all the examinations. That can be one of the considerations or reasons to infer that the petitioner was a good student and it was not that his getting into the merit list, was a manipulation or chance.

In addition to that, counsel for the petitioner

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also submits that such opinions are not full-proof opinions and they are subject to certain scrutiny before they can be accepted before such evidence is used for taking such a serious decision against the petitioner, as it jeopardize his entire career thereafter.

This matter was taken up earlier as well and adjourned with an observation that so long as finding of the Forensic Science Laboratory stands and no other opinion of an expert or otherwise is produced, which can raise a doubt upon the report of the hand-writing expert, the evidence will be loaded against the petitioner.

Matter was adjourned for giving him opportunity to knit-pick on the report of the hand-writing expert or produce any other opinion, which could raise doubt about the correctness or the findings.

Nothing of that kind has been done.

The Court cannot be unmindful of the fact that the decision impugned is an administrative decision and therefore, the reliance upon the report of the hand-writing expert cannot be lightly or casually brushed aside and it is not required to be put to rigors or scrutiny, as is required in a criminal trial.

As of now, the evidence and opinion is against the petitioner. If that be so, then merely because there



was delay in furnishing of the opinion, it does not create a right in favour of the petitioner, because if he had taken admission by using means, which were not fair then his very admission or entry into the M.B.B.S. Course at the threshold is marred and marred by certain dishonest conduct.

If this be so, the Court may not be inclined to interfere with Annexure-3.

Writ application, therefore, has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

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