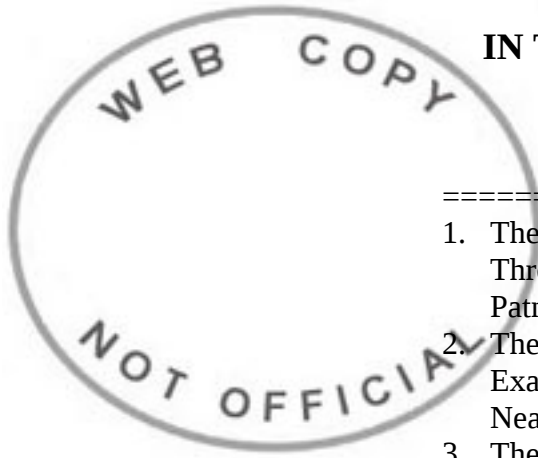




IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1368 of 2012
In
Civil Writ Jurisdiction Case No. 8299 of 2012

- =====
1. The Bihar Combined Entrance Competitive Examination Board Through its Secretary IAS Association Building Near Patna Airport, Patna- 14
 2. The Examination Of Controller Bihar Combined Entrance Competitive Examination Board through its Secretary IAS Association Building Near Patna Airport, Patna.
 3. The Officer On Special Deputy (O.S.D) Bihar Combined Entrance Competitive Examination Board through its Secretary, IAS Association Building Near Patna Airport, Patna.

.... Appellants

Versus

1. Binit Chaudhari S/O Deo Narain Chaudhari R/O Of Village And P.O- Mahishi, P.S- Mahishi, District- Saharsa.
2. The State Of Bihar through the Chief Secretary, Government Of Bihar, Patna.
3. The Secretary- Cum- Commissioner, Human Resources Development Department, Government Of Bihar, Patna.
4. The Secretary, Department Of Science and Technology, Government Of Bihar, Patna.
5. The State Board of Technical Education, Bihar, Patna through its Secretary.
6. The Secretary State Board of Technical Education, Bihar Patna.
7. The Principal, Government Polytechnic, Saharsa.

.... Respondents

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Appearance :

For the Appellants : Mr. Vikas Kumar, Advocate.
For the Respondents : None.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

2 31-03-2015 The writ petition was filed by a candidate whose candidature in the Bihar Combined Entrance Competitive

Examination was cancelled by the Board on the ground of being allegedly an imposter. The writ petitioner challenged this.

The learned single Judge while adjourning the matter to enable the State to file counter affidavit by order dated 28.06.2012 granted ad-interim stay. It is against this interim order of stay that the present appeal has been filed by the Bihar Combined Entrance Competitive Examination Board.

We are of the considered view that the learned single Judge had only passed an interim order. It was open to the Board to file the counter affidavit and to file an application for vacating the order of stay.

In that view of the matter, we are not inclined to entertain this appeal against an ad-interim order when the appellants had an opportunity to move the learned single Judge itself immediately with an application for vacating the order of stay. When the remedy was available at the door-step the appellants should not have traveled in appeal.

Thus, we find no merit in this appeal which is accordingly dismissed with a liberty to the appellants to file an appropriate application before the learned single Judge who shall consider the same in accordance with law.

In our view, the order of dismissal by the Division

Bench does not prejudice the appellants in any manner before the learned single Bench.

(Navaniti Prasad Singh, J)

Abhay/-

(Jitendra Mohan Sharma, J)

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