

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10363 of 2015

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1. Raju Kumar, son of Dinesh Singh, resident of Village - Changodih, P.S. - Khaira, District - Jamui.
 2. Sikendra Kumar Mandal, son of Mahendra Prasad Mandal, resident of Village + Post - Majua, P.S. - Forbesganj, District - Araria.
 3. Shailesh Kumar Munna, son of Ram Bali Ram, resident of Village - Sarai Saho, P.O. - Parsa, P.S. - Dariyapur, District - Saran (Bihar).

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Human Resource Development, Government of Bihar, Patna.
3. The Chairman, Bihar Combines Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, P.O. - B.V. College, District - Patna.
4. The Controller of Examination, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, P.O. - B.V. College, District - Patna.

.... Respondents

With

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Civil Writ Jurisdiction Case No.9987 of 2015

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Subhash Kumar @ Subhash Kumar Shahi, son of Subodh Kumar Shahi, resident of Ward No. - 6, Village - Panthpahar, P.O. - Panthpahar, P.S.- Bathana, District - Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Human Resource Development, Government of Bihar, Patna.
3. The Chairman, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, P.O.- B.V. College, District- Patna.
4. The Controller of Examination, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, P.O.- B.V. College, District- Patna.

.... Respondent/s

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Appearance :

(In CWJC No.10363 of 2015)

For the Petitioners :Mr. Abhay Kumar Singh, Sr. Adv.

Mr. Sumeet Kumar Singh, Adv.

For the Respondent Nos.1 & 2:Mr. Patanjali Rishi, A.C. to A.A.G.13

For the Respondent Nos.3 & 4:Mr. Vikash Kumar, Adv.

(In CWJC No.9987 of 2015)

For the Petitioner :Mr. Dinu Kumar, Adv.

Mr. Jagjit Roushan, Adv.

For the Respondent Nos.1 & 2:Mr. Mritunjay Kr., A.C. to A.A.G.13

For the Respondent Nos.3 & 4:Mr. Vikash Kumar, Adv.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

(Per: **HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**)

Date: 26.08.2015

Common grievance of the petitioners, in the present two writ applications, filed in the nature of Public Interest Litigation, is of a large scale unfair means and malpractices adopted by the examinees, through electronic gadgets and devices, in the second phase of a competitive examination conducted by the Bihar Combined Entrance Competitive Examination, 2015 ***(hereinafter referred to as "B.C.E.C.E.")*** and they have, accordingly, sought for a direction from this Court cancelling the result of the said examination and directing the respondents to conduct the examination afresh by complying with the essential norms in order to ensure a fair test.

2. We have heard Mr. Abhay Kumar Singh, learned senior counsel, appearing on behalf of the petitioners in C.W.J.C. No.10363 of 2015, and Mr. Dinu Kumar, learned counsel, appearing on behalf of the petitioner in C.W.J.C. No.9987 of 2015. We have also heard Mr. Patanjali Rishi, learned A.C. to A.A.G.-10, appearing on behalf of the respondent Nos.1 and 2, and Mr. Vikash Kumar, learned



counsel, appearing on behalf of the respondent Nos.3 and 4 in C.W.J.C. No.10363 of 2015 and Mr. Mritunjay Kumar, learned A.C. to A.A.G.-10, appearing on behalf of the respondent Nos.1 and 2 and Mr. Vikash Kumar, learned counsel, appearing on behalf of the respondent Nos.3 and 4 in C.W.J.C. No.9987 of 2015.

3. The Bihar Combined Entrance Competitive Examination, Board, Patna (***hereinafter referred to as the "Board"***), conducts entrance test for admission to various technical courses at graduation level, namely, Engineering, Pharmacy, Medical, Biotechnology and Agriculture. The tests, competitive in nature, are held in two phases. The first phase of the examination is a preliminary type of test, whereafter the final or mains examination is held. The examination, in relation to which the allegations of unfair means and malpractices have been alleged, relate to second phase of the examination, which was held by the Board on 17.05.2015. It is the case of the petitioners, mainly based on newspaper reports, that in course of the mains examination held on 17.05.2015, fourteen examinees from five different examination centers were apprehended for using electronic devices, such as, Bluetooth, leading to



institution of First Information Reports against them. It is their further case that they had represented before the authorities concerned by submitting written memoranda and also by meeting, personally, the Officer-On-Special-Duty of the Board, raising the issue of unfair means and malpractices, adopted in the mains examination, with a request to cancel the examination/test, so held, and hold the examination afresh, in all fairness.

4. All the writ-petitioners were the examinees in the concerned mains examination, conducted by the Board, on 17.05.2015, except petitioner No.2 of C.W.J.C. No.10363 of 2015. It has been asserted, in the writ application, i.e., C.W.J.C. No.10363 of 2015, that he (petitioner No.2) does not have any personal interest, either directly or indirectly, in the present proceeding filed in the nature of Public Interest Litigation.

5. We could have refused, at the very threshold, to entertain these two writ applications as Public Interest Litigation as the petitioners were found be espousing their own private cause by seeking relief as indicated hereinabove. However, keeping in mind the fact that the petitioners are young persons just having come out of schools and the nature of grievances, raised by them,



relate to entrance in academic institutions on the basis of competitive test, we, vide order, dated 19.08.2015, out of sheer inquisitiveness and in order to assess the *bona fide* of these petitioners, in approaching this Court, for the relief, as sought for by them, had directed Mr. Vikash Kumar, learned counsel, appearing on behalf of the Board, to produce before this Court the answer sheets of the petitioners, who had participated in the competitive examination, held on 17.05.2015, in a sealed cover. Pursuant to this Court's order, dated 19.08.2015, the Board, through its counsel, produced before us the original OMR sheets of Part-1 and Part-2 examinations, the marks secured therein and their rank statements.

6. Upon perusal of the original records, produced by the Board, which are indicative of the performance of these petitioners in the said examination held on 17.05.2015, we are of the view that the petitioners lack *bona fide* in approaching this Court seeking cancellation of the entire examination in question.

7. Having held thus, we do not find that these applications can be sustained. These applications are, accordingly, dismissed.

8. Let the OMR sheets (Part-1 & Part-2) and other

documents, produced before this Court in sealed cover,
be returned to Mr. Vikash Kumar, learned counsel,
appearing on behalf of the Board.

(I. A. Ansari, ACJ.)

(Chakradhari Sharan Singh, J.)

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