

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7315 of 2015

Dr. Birendra Kumar Singh, Son of Late Awadh Bihari Singh, Village - Dayalahak,
P.O. Kotwapati Rampur, P.S. Doriganj, District - Saran at Chapra.

.... Petitioner

Versus

1. Bihar School Examination Board (Senior Secondary) Budha Marg, Patna through its Secretary
2. The Chairman, Bihar School Examination Board (Senior Secondary) Budha Marg, Patna
3. The Secretary, Bihar School Examination Board (Senior Secondary) Budha Marg, Patna
4. The Governing Body of Tapeswar Singh College, Chapra, through its Secretary
5. The President, Governing Body of Tapeswar Singh College, Chapra, District Saran.
6. Nawal Kishore Singh, father's name not know, Lecturer of English, Tapeswar Singh College, Chapra District- Saran

.... Respondents

Appearance :

For the Petitioner	:	Mr. Y.V. Giri, Senior Advocate
		Mr. Sunil Kumar Singh, Advocate
For B.S.E.B.	:	Mr. Sunil Kumar Mandal, Advocate
For Res. Nos.4 & 6	:	Mr. Shubh Narain Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 09-08-2016

Petitioner was nominated as a teachers' representative on the governing body of what is known as Tapeswar Singh College at Chapra in the district of Saran. According to him, he was duly elected by the teachers of college to be the teachers' representative as part of the managing committee and this fact is evident from the notification issued by the Bihar School Examination Board on 22.12.2014. The notification is Annexure-2 to the writ application.

The term and tenure of such managing committee or of the elected representative is said to be three years as per Rule 17(3) of Bihar

School Examination Board (Senior Secondary) Affiliation Regulation, 2011. However, even before the expiry of that period and in fact within almost a year of the notification contained in Annexure-2, yet another notification has been issued by the Bihar School Examination Board on 11.08.2015 nominating one Nawal Kishore Singh in his place as the teachers' representative.

Submission of the learned senior counsel for the petitioner is that in absence of any provision in the Rules merely on the so called vote of no confidence the Bihar School Examination Board could not undo the previous decision of nominating the petitioner on the Board of Managing Committee.

From the counter affidavit filed on behalf of the Examination Board and the private respondent, what emerges is that the teachers of the college in question who formed the electoral college seem to be dissatisfied with the petitioner for many a reason. In fact it is also alleged that some of his conduct is unpardonable in civilized society because he resorted to strong arm tactics and even physical assault to subjugate the teachers of the college in question. Fed up with the behaviour of the petitioner, the teachers decided to elect yet another representative after expressing a vote of no confidence in the petitioner. It is in this background that Annexure-5, dated 18.08.2015 came to be issued. The notification of the Bihar School Examination Board is basically in furtherance of implementation of the will of the electoral college in question.

No doubt no provision has been made with regard to any

vote of no confidence for removal of such representative in the rule/regulation indicated above but the Court comes to a considered opinion that since the petitioner was a product of the decision of the majority of the electoral college, the electoral college inherently does have powers to bring a vote of no confidence if the conduct of their representative is unacceptable to the majority of the teachers. It is integral and inherent to such democratic exercise of making an informed choice. If the majority expressed lack of trust and faith because of the conduct of the petitioner then no rules as such are required for bringing a vote of no confidence and electing another representative.

The tenure of three years is the normal tenure prescribed in terms of the regulation but the said tenure is not sacrosanct and it can be cut short under certain circumstances one of them being a vote of no confidence and a fresh election of a new representative.

In view of the above, Annexure-5 is not required to be interfered with. Writ is dismissed.

(Ajay Kumar Tripathi, J.)

S.Kumar/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	10.08.2016
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