

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10915 of 2016

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Premchand Kumar Son of Sri Narsingh Prasad Gupta Resident of Village : -
Hardiabad, P.O. : - Jankinagar, P.S. : - Muffasil, District : - Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Labour Resources Department, Govt. of Bihar, Patna.
2. The Controller of Examinations, Bihar Combined Entrance Competitive Examination Board (B.C.E.C.E. Board), Bihar, Patna.
3. The District Magistrate, Munger.
4. The Principal, Industrial Training Institute (I.T.I.), Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ambika Bhagat
For the BCECE Board : Mr. Vikas Kumar
For the State : Mr. Sunil Kumar, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 10-11-2016

Heard learned counsel for the parties.

Petitioner was provisionally allotted and admitted in the Trade Sheet Metal Worker Course at ITI, Munger on the basis of examination held by the Bihar Combined Entrance Competitive Examination Board. Petitioner took admission, underwent the studies and completed it as well.

Now the problem has arisen, because after many years of completion of the course, the Combined Entrance Competitive Examination Board has decided to withdraw the provisional admission granted to the petitioner. The primary reason, which has been indicated in Annexure-7, dated 14.04.2016, which is under

challenge, is that on a scientific analysis of the hand writing of the petitioner, wide variance has been found in the actual hand writing of the petitioner viz-a-viz the hand writing of the candidate, who had taken the examination.

When the matter was taken up, the Court wanted to have a look at the primary material, which formed the basis of passing of the impugned order, contained in Annexure-7. The primary material and evidence is supposed to be the opinion, which has been given by the State Examiner of Question Documents. The opinion is Annexure-D series, which has been annexed with the supplementary counter affidavit filed on behalf of the said authority, i.e., the State Examiner of Question Documents.

The Court has gone through the opinion, the samples used and the hand writing which were compared with the specimen. The Court has tried to apply its independent mind as well to the material. Even as a layman the benefit of doubt, which the petitioner is claiming on the ground that the petitioner at the relevant time had fallen sick and because he was too weak, the two hand-writings are at variance, cannot be accepted.

In addition to that since the petitioner has not brought any other material or opinion, which in any manner can dislodge the opinion given by the authority, there is no second opinion as well, which makes the finding arguable.

The Court is aware of the fact that the admission

related to the year 2010 and the impugned order, contained in Annexure-7, has been passed on 14.04.2016, after much delay of completion of the course, which has serious implications for the petitioner. The Court, therefore, directs all the authorities that they have an obligation to render opinion and take a decision on such controversial facts at the earliest, so that a candidate can work out alternative ways and means for taking care of his future, by acquiring some other skill or education.

However, the fact that the admission was obtained by the petitioner by using means, foul the same cannot find favour under law as the right was acquired by playing fraud with the system. The well settled principle that the fraud vitiates everything cannot be either diluted or ignored.

The Court, therefore, is not inclined to interfere with the impugned order, contained in Annexure-7, dated 14.04.2016.

Writ application is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	11.11.2016
Transmission Date	