

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1203 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 5209 of 2013**

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Sanjeev Kumar Jha, S/o - Sri Naresh Chandra Jha, Resident of - Babu Saheb Colony, P.O. - Laheriasarai, District - Darbhanga.

.... Petitioner- Appellant

Versus

1. Bihar School Examination Board, through the Secretary, Sinha Library Road, Patna.

2. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna.

.... Respondents-Respondents

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Appearance :

For the Appellant/s : Mr. Rajeev Kumar Singh, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 28-07-2016

The order dated 5th of November, 2014 passed by the learned Single Bench of this Court is subject matter of challenge in the present Letters Patent Appeal whereby, the writ application filed by the appellant for disputing the answers in the Optical Mark Recognition (for short, 'OMR') answer sheet was not interfered with.

The appellant appeared in the Bihar Secondary/Senior Secondary Teachers' Eligibility Test, 2011. He could not qualify as he could not get 90 marks which were the qualifying marks. The appellant has secured 75 marks in Paper I and 84 marks in Paper II. Thus, he was declared unsuccessful.



The appellant earlier made an application under the Right to Information Act to the Deputy Secretary-cum-Public Information Officer, Bihar School Examination Board for providing photocopies of question booklet, answer key and OMR answer sheet. The appellant was informed that no photo copies of the question booklet, answer key or OMR answer sheets can be provided.

In the writ petition filed by the appellant, an expert committee was appointed to examine the answer keys. The Committee found that only answer to Question No.117 is incorrect. Thus, the Board decided to give one mark. On the basis of the expert committee report, the learned Single Bench dismissed the writ petition as by giving one more mark, there was no change in the ultimate result of the appellant.

Before this Court, the learned counsel for the appellant argued that under the Right to Information Act, the appellant was informed that OMR answer sheets stand destroyed as they were kept in open, but now they have put OMR answer sheets along with counter affidavit which shows that the answer given under the Right to Information Act was not correct. Therefore, the decision that only one answer was incorrect cannot be sustained.

The respondents in the counter affidavit have explained that the question booklet actually used by the appellant was not

preserved, but the question booklet was later made available to the Board by the confidential printer in data copy. Such OMR answer sheets have been appended with the counter affidavit.

Since the primary OMR answer sheet has not been preserved, but the secondary OMR answer sheet has been produced which the appellant is not able to dispute as not his answer sheet, therefore, it cannot be said that the stand of the respondents that only one answer was incorrect can be said to be incorrect in any manner.

We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
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