

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5150 of 2016

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1. The Bihar School Examination Board, a statutory body constituted under the Bihar School Examination Board Act, 1952, Sinha Library Road, P.S. Kotwali, District- Patna through its Secretary.
 2. The Secretary, The Bihar School Examination Board, Sinha Library Road, P.S. Kotwali, District- Patna.

.... Petitioners

Versus

1. The Bihar Human Rights Commission, 9 Bailey Raod, Patna, Bihar- 800015 represented through its Secretary.
2. Priyanka Kumari, daughter of Shri Binod Singh, resident of Village and P.O. Alampur, P.S. Shivsagar, District- Rohtas- 821113 represented by her father and natural guardian Shri Binod Singh, resident of Village and P.O. Alampur, P.S. Shivsagar, District- Rohtas- 821113.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Satyabir Bharti, Advocate
	:	Mr. Apauna Arun, Advocate
For the Respondents	:	Mr. Pramod Kr. Sinha, Advocate
	:	Mr. Permanand Prasad, Advocate
	:	Mr. Arvind Kr. Sharma, Advocate
	:	Mr. Chetan Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 19-11-2016

Heard parties.

The Bihar School Examination Board is before the High Court challenging the order dated 21.01.2016 passed in file no. 3268 of 2014 by the State Human Rights Commission. The said impugned order is Annexure-17 to the writ application.

By virtue of this decision, a cost of Rs. 1 lac has been imposed upon the State Government, the department of



Education and Bihar School Examination Board. The order further gives liberty to all the three authorities to recover a sum of Rs. 25,000/- from such officer who was responsible for denying the benefit of scholarship from the Education Department and another Rs. 75,000/- from such teachers, officers or employees who were responsible for showing the private respondent no. 2 to have failed in the examination.

Submission of learned counsel representing Examination Board is that the grievance of the petitioner raised before the Commission that it was because of the omission on the part of the Examination Board that she was shown to have failed in mathematics with only five marks as well as having failed overall which made the petitioner suffer for almost a year, before the necessary rectification in the result was made after the intervention of the Commission.

The Court is not inclined to go into the issue whether the grievance raised before the Commission by the private respondent strictly comes within the ambit of human right violation or not though the issue is arguable. But one thing is of significance that the Commission itself did not find the Board as



such to be guilty but certain authorities or individuals who were found to have been responsible for the predicament in which the private respondent was. That is why, the Board was given liberty to recover the amount from such teachers, officers or employees for whose failure, the private respondent was shown to have failed.

The only reason that the cost was recovered from the Examination Board was because there could not be delay in payment of compensation to the private respondent.

In the opinion of the Court, if the Examination Board authorities as such were not found guilty and certain individuals saddled with the duty of evaluation of the answer sheets of the private respondent were found so. That is why, the Commission was convinced that the Board could recover the amount from them as well. If so, it was obligatory upon the Human Rights Commission to issue notice to such people, give opportunity and then fix responsibility and pass appropriate orders.

By virtue of the direction and by giving liberty to the Examination Board to effect recovery, the Commission has

only passed on its responsibility, cast upon it to another body or agency. The Examination Board is not an extension or a limb for execution of the order of the Human Rights Commission.

Serious objections could also be raised even by persons affected including violation of the Principles of Natural Justice since the Commission did issue notice or give opportunity to explain their case. This by itself is good enough for this Court to pass an order quashing Annexure 17 because the direction given by the Commission seems to be vague and may not be practically implementable.

The Court will also not allow the State Human Rights Commission to outsource its responsibilities and duties by finding an easy object for execution of the component of recovery of compensation and allowing the Examination Board thereafter to effect recovery as being the recovery officer on behalf of the Human Rights Commission.

These are serious omissions and dilution of the powers and responsibility of the Human Rights Commission. Therefore, keeping in mind that the Examination Board as such has not been held to be guilty, the recovery of compensation of

Rs. 1 lac deposited by them would be required to be refunded.

For the reasons as above, the impugned order dated 21.01.2016 contained in Annexure-17 stands quashed. The matter is allowed. The money paid to respondent no. 2 therefore, will be required to be refunded back to the Examination Board within a period of eight weeks from the date of receipt/ production of a copy of this order, keeping in mind that the payment made by the Examination Board was subject to outcome of the writ application and without prejudice to their rights.

(Ajay Kumar Tripathi, J.)

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CAV DATE	
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