

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.443 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 25458 of 2013
Along with
Interlocutory Application No. 2057 of 2015

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Anish Kumar, son of Late Maheshwar Singh @ Maheshwari Singh , resident of
Village - Jaitiya, P.O.- Eguna, Police Station - Konch, District - Gaya

.... Appellant/s

Versus

1. The State of Bihar through Secretary, Department of Science and Technology, Technology Bhawan, Bailey Road, Patna .
2. The Secretary, Department of Science and Technology, Technology Bhawan, Bailey Road, Patna .
3. The Secretary, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, Patna-14 .
4. The Examination Controller, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Airport, Patna-14
5. The Officer on Special Duty, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, Near Patna Air port, Patna-14
6. The Controller of Examination, State Board of Technical Education, Bihar, Patna.
7. The Secretary, State Board of Technical Education, Bihar, Patna.
8. The Director General of Police, Bihar, Patna.
9. The Director, Police Laboratory, C.I.D. Bihar, Bailey Road, Patna
10. The Principal, Government Polytechnic Gaya
11. The Superintendent, Anugrah Narayan Magadh Medical College and Hospital, Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rabi Bhushan Prasad, Advocate
For the State : Mr. Harish Kumar, GP-32
For the BCECE : Mr. Vikas Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 23-06-2016

Heard learned counsel for the parties.

Re.: Interlocutory Application No. 2057 of 2015

The Interlocutory Application has been filed seeking

condonation of 178 days delay in filing of the Letters Patent Appeal.

Upon hearing learned counsel for the parties and considering the submissions made in the Interlocutory Application, we find that sufficient cause has been shown for delay in filing of the appeal. Consequently, the delay in filing of the Letters Patent Appeal is condoned.

Interlocutory Application No. 2057 of 2015 stands disposed off.

Re.: Letters Patent Appeal No. 443 of 2015

The challenge in the present appeal under Clause-X of the Letters Patent of Patna High Court is directed against the order dated 14th May, 2014 passed by the learned Single Bench by which C.W.J.C. No. 25458 of 2013 filed by the appellant has been dismissed.

The appellant had appeared at the examination held by the Bihar Combined Entrance Competitive Examination Board (hereinafter referred to as the 'Board') and qualified for admission in DCECE course of 2009. At the time of counselling, upon the signature and handwriting being verified, it appeared that the appellant's handwriting was different from the handwriting in the examination paper. The matter was, thus, referred for opinion to the Forensic Science Laboratory (hereinafter referred to as the 'FSL'). Due to delay in the report from the FSL, the appellant was permitted to join the



course, subject to the outcome of the FSL report. The FSL report opined that there was difference in the two handwritings. The Board, accordingly, decided to annul the admission of the appellant. Such action was challenged in the writ application which was dismissed leading to the filing of the present appeal.

Learned counsel for the appellant submits that due to there being death of the father of the appellant a few weeks prior to him appearing for the interview, he was not in a fit mental condition and thus, some discrepancies might have arisen, but the same do not indicate that there were two different persons writing the examination and appearing before the interview board. It is submitted that the Board also makes arrangement for taking of photography and videography during the examination but such evidence has not been looked into and only because of the report of the FSL, the appellant has been proceeded against, which is not proper. Learned counsel further submits that he has got the appellant to write before him and has found that there were no differences of such nature which warrant annulment of the result of the appellant, as the handwriting could not be said to be of two different persons. Learned counsel submits that even the modality of the FSL taking another sample in their presence to compare the similarity, was not done. Learned counsel submits that the petitioner had completed his course and done well, which clearly shows that the petitioner is a

good student, and as such there was no reason for him to get another person to sit for the Entrance Examination. Lastly, learned counsel submits that the appellant should at least have one opportunity to assail the FSL report which has not been provided.

Learned counsel for the respondents submit that the report of the FSL is a detailed one and thus the contention of the appellant that he had appeared at the examination is incorrect. It is further submitted that the photo of examinee who appeared in the DCECE-2009 against the appellant's Roll number is not available and also that no thumb impression being taken, the same cannot be verified. It is submitted that the appellant had himself given an undertaking that the admission granted to him would be subject to the final result of the FSL and if it was against him, his candidature would be cancelled. It is, thus, submitted that the order passed by the Board dated 18.11.2013 by which the provisional admission order has been taken back is sound both on facts as well as in law.

Having considered the rival contentions, the Court does not find any merit in the appeal. The fact that para-15.4 of the prospectus of DCECE-2009 clearly stipulates that submission of incorrect /false documents and adoption of unfair means/impersonation, if detected, shall lead to rejection of the candidature, expulsion from the examination/nomination for admission process and such candidate will



also be liable for appropriate legal action. Further, para-6 of the text of the advertisement specifies that prior to selection of candidate for admission, during the counselling, the identity of such candidate will be verified. The same was also mentioned in para-4 of the call letter sent to the appellant for appearing at the counselling. It would be relevant to note here that the comparison of the handwriting of the appellant during the examination and counselling was initially compared by the counselling team members who termed it as 'doubtful'. The case was, thus, referred to the senior teachers of the Polytechnic Institutions and the appellant was given another chance to give his specimen handwriting before them. The team of senior teachers, after comparing the handwritings, also reported that the handwriting of the candidate who had written before them does not match fully and the case may be referred to the FSL for further verification. According, the matter, upon being referred to the FSL, a detailed report has been submitted with the opinion that the points of differences found were habitual and beyond the range of natural variation or intended disguise and collectively indicate that the disputed writings and signatures as well as specimen writings and signatures were written by two different persons.

From perusal of the said report of the FSL, we find that numerous instances have been given and shown in the report for coming to the aforesaid concluding, which in the considered opinion of

the Court, does not suffer from any perversity or illegality. The Court also cannot lose sight of the fact that purity has been maintained in matters of admission through Entrance Examinations as the purpose is to ensure that merit dose not suffer and only genuine candidates, who are able to prove their merit, get admission to courses for which seats are limited. Moreover, transparency has also to be maintained in such process.

In the instant case, we do not find any irregularity in the procedure adopted by the Board to come to the conclusion that the appellant does not appear to be the person who had appeared for the examination and, thus, the action taken by the Board cannot be faulted. The same has rightly been upheld by the learned Single Bench.

For the reasons aforesaid, the Letters Patent Appeal, being devoid of merit , stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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