

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19060 of 2015

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Md. Tahir son of Abdul Hassan Resident of Village- Mahua Bhusa, P.O.-
Lachhmautta, District- West Champaran. Presently posted at Up graded Middle
School, Kishunpur, Kako, District- Jehanabad.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The District Education Officer, Jehanabad.
4. The District Programme Officer, Establishment, Jehanabad.
5. The Bihar School Examination Board, Budh Marg, Patna through its Secretary.
6. The Chairman, Bihar School Examination Board, Budh Marg, Patna.
7. The Secretary, Bihar School Examination Board, Budh Marg, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Siyaram Shahi, Adv.
Mr. Binod Kumar, Adv.

For the Respondent/s : Mr. Ashish Kumar Lal, AC to GA5

For the B.S.E.B. : Mr. Gyan Shankar, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 19-09-2016

Heard counsel for the petitioner and the counsel for the
respondents.

Petitioner has a grievance against the two decisions. One is
dated 18.8.2015, contained in Annexure 1, by virtue of which Bihar
School Examination Board has annulled the result of Teachers
Training of the petitioner for the reasons indicated therein and
secondly, based on such decision of the Examination Board the
District Programme Officer (Establishment), Jehanabad vide order
dated 21.11.2015 has cancelled appointment of the petitioner as an

Assistant Teacher. This order is now under challenge as Annexure 10 annexed with I.A.No. 537/2016.

Submission of the counsel for the petitioner is that the petitioner was granted admission by the institution in question for Teachers training. He underwent the course, cleared the examination, who was awarded marks and now after more than 25 and odd years the respondent authorities have decided to cancel the result on the ground that the petitioner did not have minimum eligibility to take admission for the Teachers Training course.

Stand of the petitioner is that a decision of such kind is required to be set aside because passing of the examination by the petitioner after admission is not a matter of dispute. Counsel for the petitioner tries to rely upon certain decisions whereby admission has been granted to a candidate with one infirmity or the other but once such a candidate had passed the examination, the said infirmity was not allowed to come in the way of such candidate. In this regard the attention of the Court has been drawn to the case of the Vice Chancellor, Jai Prakash University, Chapra & anr. v. Anmol Kumar Verma & anr., reported in 2003(1) BLJ 472, as well as yet another decision, which is the case of Vijay Kumar & ors. v. The State of Bihar & ors., reported in 2003(1) BLJ 398. Even a decision of the Hon'ble Supreme Court has been pressed into service by the

petitioner, which is the case of State of Maharashtra v. Milind & ors., reported in AIR 2001 SC 393.

The sum essence of the above decisions is that once a candidate has been allowed to participate and qualify in the examination, it serves no body's purpose by allowing any kind of interference with that status.

Counsel for the Examination Board has filed a detailed counter affidavit. In the counter affidavit it is evident that the petitioner was one of the candidates, who was appointed as an Assistant Teacher by virtue of the decision rendered by the Hon'ble Supreme Court. But such appointments became subject matter of scrutiny. It was during the said exercise that it emerged that the petitioner had passed Matriculation Examination from a High School in Narkatiyaganj in the year 1972. He had passed the said examination in 3rd Division with only 287 marks. However, for the reasons best known to the institution, imparting Teachers Training course, despite a clear directive in place at the relevant time, that a minimum of 55% marks is required for general category candidate for admission, petitioner had been granted admission. He was allowed to pursue his studies, though he did not have the basic eligibility, to be given admission.

It is further stated in the counter affidavit that there was also



dispute with regard to issue of recognition to the said institution by the State authorities. Some kind of clarity emerged only after intervention of the High Court and a declaration with regard to the period when the petitioner had purportedly undergone training in the said institution. Therefore, it is not that the institution from where the petitioner passed out was free of controversy.

Another aspect which emerges from the pleading is that when verification of the marks-sheet and the marks of the petitioner was carried out from the tabulation register, it is found that an endorsement has been found next to the result of the petitioner, 'result withheld'. Despite the result being withheld, the petitioner seems to have obtained marks-sheet and utilized the same for the purpose of obtaining employment under the respondents.

The petitioner's acquisition of knowledge as well as the results are not free of controversy. Things are not above board, if what has emerged in the present writ application, right from the time petitioner had taken admission and the manner in which the result came to be declared. The petitioner never had the occasion to use his certificate in so many decades till came to be appointed as Assistant Teacher in the year 2012. Once the enquiries started the soft underbelly of the petitioner emerged. The natural corollary would be cancellation of his engagement which has been done through

Annexure 10.

The Court in the given facts, therefore, cannot grant equity in favour of the petitioner. In fact the Court opines that he has tried his level best in beating the system through and through and at every juncture he cannot be allowed to take the system for a ride. No interference is warranted with the impugned decisions.

Writ is dismissed.

However, the Court before parting does hold that the decision to recover money from the petitioner after passing an order for his dismissal from retrospective effect is required to be set aside to the extent that since the petitioner was allowed and permitted to work, recovery, if already made, shall be refunded to the petitioner within a period of three months and that termination of the petitioner will be effective from the date of issuance of the order, not from retrospective date.

(Ajay Kumar Tripathi, J)

Surendra/-

AFR/NAFR	AFR
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