

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.145 of 2013

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1. The Chairman Bihar School Examination Board , Patna, Bihar
2. The Secretary, Bihar School Examination Board, Patna
.... Appellants

Versus

1. Lalla Shankar Prasad Sinha S/O Late Kapildeo Khararura P.S.-
Minapur, Distt-Muzaffarpur, at present posted as Assistant Science
Teacher.
2. The State of Bihar, through the Director, Secondary Education, Govt.
of Bihar, Patna
3. The Head Master, Ram Krishna High School, Minapur.
.... Respondents

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Appearance :

For the Appellants : Mr. Satyabir Bharti, Advocate
For the Respondents : Mr. Rajeev kr. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 15-03-2016

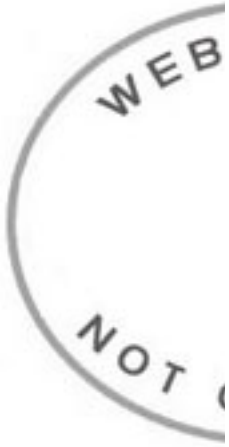
Heard learned counsel for the appellant-State
and learned counsel for the private contesting respondent,
who was the writ petitioner.

2. State is aggrieved by the brief order dated
21.09.2012 passed by learned Single Judge of this Court in
C.W.J.C. No. 9747 of 2012.

3. We have heard the parties at length and
perused the records. The grievance of the writ petitioner, who
is the sole private respondent herein, was that he had applied
to the Bihar School Examination Board (in short the
“Board”) for correction of his date of birth as recorded in

matriculation certificate which has been refused. The learned Single Judge by his brief order, virtually without noticing the contention of the parties, allowed the writ petition and directed the Board to amend the matriculation certificate. Hence, this appeal by Bihar School Examination Board.

4. The facts are not in dispute. The writ petitioner/respondent appeared in the annual secondary school examination conducted by the Board in the year 1968. He was issued a mark-sheet, in respect thereof, his date of birth was recorded as 05.11.1952. He did not dispute the same. In the year 1977 i.e. on 15.01.1977, he joined as Assistant Teacher in the State Government and his service book was accordingly opened. Upon his own declaration, his date of birth was recorded in the service book as 05.11.1952, consistent with the record of date of birth on the matriculation certificate. It appears, in or around 1999, the Board received several complaints of wrong recording of date of birth in the matriculation certificates. The Board took a policy decision that wherever a candidate is able to produce record of the Board to show that the date of birth as recorded in the matriculation certificate is at variance with other record of the Board, correction/changes would be permitted. It was also provided that changes would be permitted in respect of





only those matriculation records which were issued or prepared within 10 years. It is at this juncture, the writ petitioner/respondent applied to the Board for correction of date of birth in his matriculation certificate which was issued as far back as in 1968, which he had never earlier challenged. One of the requirements, as stipulated by the Board, was production of some record of the Board like the original admit card issued for the matriculation examination, as on those admit cards also, date of birth is recorded.

5. The writ petitioner/respondent claimed that while taking admission in college, he was required to deposit the admit card, he did not have the same in support of the change claimed in date of birth. He produced some copies of some registers of the school, but no document of the Board, as was required. It is upon these facts that the learned Single Judge allowed the writ petition without even bothering to refer to those very provisions of the required facts.

6. Having considered the matter, in our view, we have no option but to allow this appeal. Hence, we set aside the order of learned Single Judge, and dismiss the writ petition.

7. The writ petitioner/respondent, on showing, that he was in possession of the matriculation certificate in

the year 1968 itself, it is on the basis thereof that he took admission in college, and on that basis, he took employment under the State Government. It is upon his own declaration that the service book was prepared showing his date of birth as 05.11.1952. He had never challenged this fact at any point of time. He was taking advantage of the policy decision of the Board, which was issued in the year 1999, and was clearly not meant for him. Even otherwise, he failed to produce the document required and satisfy the authority. Thus, there was no material, on basis of which, the Board could correct or alter its record, which remained unchallenged for over 30 years.

8. For the reasons aforesaid, in our view, we set aside the order of learned Single Judge, and dismiss the writ petition.

9. We, accordingly, allow this appeal.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/A.F.R.

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