

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37710 of 2016

Arising Out of PS.Case No. -270 Year- 2016 Thana -KOTWALI District- PATNA

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Ranjeet Kumar Mishra, son of Late Shiv Kumar Mishra, R/o MIG - 13,
Hanuman Nagar, P.S. - Patrakar Nagar, District - Patna.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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With

Criminal Miscellaneous No.43822 of 2016

Arising Out of PS.Case No. -270 Year- 2016 Thana -KOTWALI District- PATNA

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Shambhu Nath Das, Son of Late Surendra Mohan Das, Resident of West
Patel Nagar, P.S. Shastri Nagar, Patna at Present In-charge Officer,
Confidential Section, Bihar School Examination Board, Patna

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance:

(In Cr. Misc. No. 37710 of 2016)

For the Petitioner/s : Mr. N.K. Agrawal, Sr. Advocate and
Mr. Prabhat Ranjan Singh, Advocate.

For the Opposite Party/s : Mr. Ajay Mishra, A.P.P.

(In Cr. Misc. No. 43822 of 2016)

For the Petitioner/s : Mr. Durga Nand Jha and
Mr. Bhagya Narayan Jha, Advocates.

For the Opposite Party/s : Mr. Ajay Mishra, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

5 29-11-2016 Heard Sri N.K. Agrawal, learned senior counsel

appearing for Ranjeet Kumar Mishra (petitioner in Cr. Misc. No.

37710/2016), Sri Durga Nand Jha, learned counsel appearing for

Shambhu Nath Das (petitioner in Cr. Misc. No. 43822/2016) and

Sri Ajay Mishra, learned A.P.P. appearing for the State in both the cases.

The petitioners seek bail in Special Case No. 32/2016, arising out of Kotwali P.S. Case No. 270/2016 / G.R. No. 3528/2016, registered under Sections 420, 468, 471, 120B and other sections of the Indian Penal Code and Section 13(2) and other sections of the P.C. Act.

The informant Rajiv Prasad Singh Ranjan, Director, Secondary Education, Department of Education, Government of Bihar, Patna alleged that Intermediate Examination of the Year 2016 was conducted by the Bihar School Examination Board (in short, 'the B.S.E.B.') without any unfair means. In spite of that, the students of Science and Arts streams of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur secured 1 to 10 positions in the merit list. They were interviewed by the Media and it transpired that they got top positions without any merit. It transpired that their copies were changed. They were awarded higher marks in order to provide them top ranks at the Intermediate Examination of Science and Arts streams. It is further alleged that the Evaluation Centers of all the Examination Centers falling in the district of Vaishali Hajipur were either in the district of Bhabhua or Ara but only the Evaluation Center of



Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur was fixed at Rajkiye Balak Uchcha Vidyalaya, Rajendra Nagar, Patna and this decision was taken in order to give undue favour to the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur. Names of the toppers have also been mentioned in the F.I.R. itself.

Learned counsels for the petitioners Ranjeet Kumar Mishra and Shambhu Nath Das have stated that the petitioners are not named in the F.I.R. Petitioner in Cr. Misc. No. 37710/2016, namely, Ranjeet Kumar Mishra is an Assistant in the Bihar School Examination Board and he was posted in the Confidential Office of the Secretary of the Bihar School Examination Board. Petitioner in Cr. Misc. No. 43822/2016, namely, Shambhu Nath Das is a Section Officer and he was posted in the Confidential Office of the Secretary of the Bihar School Examination Board. During the course of investigation, the Confidential Office of the Bihar School Examination Board was searched upon on 08.06.2016 and different documents and copies of the students were seized and the presentation-cum-seizure list was prepared. The petitioners are alleged to have not explained the presence of the copies in the Confidential Office. It is submitted that by the order of the Chairman or the Secretary of the B.S.E.B., the copies

of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur were kept in the Confidential Office. The petitioners did not receive those copies and the petitioners are not responsible for any omission or commission made in the copies. The petitioners are in jail since 10.06.2016.

On the other hand, Sri Ajay Mishra, learned A.P.P. with full force at his command, opposed the prayer for bail and submitted that on the last date of hearing, i.e., 17.11.2016, instructions were sought for on three points; firstly, by the order of which authority, the Examination Center of Bishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali was changed from Gurukul Vidyapithh, Nawada, Hajipur to G.A. Inter School, Hajipur; secondly, after examination, the copies of the examinees were sealed and kept in the Strong Room but by the order of which authority, the copies of the examinees of Bishundeo Rai College were brought to the Bihar School Examination Board; thirdly, where the answer sheets of the students of Bishundeo Rai College were evaluated and whether the copies were sent to the B.S.E.B. after evaluation in the sealed cover or not.

Sri Ajay Mishra, learned A.P.P., submits that the Chairman of the B.S.E.B., the Principal Secretary, Department of Education, Government of Bihar, the District Magistrate and the

District Education Officer, Vaishali changed the Examination Center of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur from Gurukul Vidyapithh, Nawada, Hajipur to G.A. Inter School, Hajipur but the Investigating Officer has not collected any material as to under what circumstances, the Examination Center of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur was changed from one school to another. It is further submitted that from perusal of the F.I.R. itself it appears that the Evaluation Centers of the copies of the students, who appeared within the district of Vaishali Hajipur, were fixed at Bhabhua and Ara but it was the solitary instance that the copies of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur, who appeared in the examination from G.A. Inter School, Hajipur, were brought to the B.S.E.B. and it was ordered that the Evaluation Center of those copies shall be the B.S.E.B. but no order to this effect was seized or brought on record. Again by the order of Sri Harihar Nath Jha, Secretary of the B.S.E.B. vide letter no. BSEB SS 127/SC/16, the Evaluation Center of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur was changed from the B.S.E.B. Center to Rajkiye Balak Uchcha Vidyalaya, Rajendra Nagar, Patna and from there the



copies were again brought to the B.S.E.B. and kept in the Confidential Office where the petitioners were working as Assistant and Section Officer. It is further submitted that Dilip Kumar Jha and Chitrasen, two employees of the B.S.E.B., have disclosed in their statements as well as the statements recorded under Section 164 of the Code of Criminal Procedure that they brought the copies of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur from the Strong Room of Vaishali to the B.S.E.B. and kept the same in the Confidential Office but the petitioners did not provide any receipt for receiving the copies. Sri Ajay Mishra, learned A.P.P., further submitted that the petitioners are also responsible as they should not have allowed the copies to be kept in the Confidential Office of the Chairman and the Secretary of the B.S.E.B.

On perusal of the records and the case diary, it appears that the informant has made a very specific allegation that from the inception of the examination, the authorities gave undue favour to Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur inasmuch as firstly the Examination Center of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur was changed from Gurukul Vidyapithh, Nawada, Hajipur to G.A. Inter School,

Hajipur but no specific order was brought on record to the effect that by whose order at the last moment the Examination Center was changed. Even the copies of all the students appearing in the district of Vaishali Hajipur were to be examined and evaluated at two different centers situated in the district of Bhabhua and Ara but the copies of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur were brought to the B.S.E.B. Center for evaluation but, by whose order or direction the those copies were brought to the B.S.E.B. Centere has not been brought on the record by the Investigating Officer. Dilip Kumar Jha and Chitrasen, the two employees of the B.S.E.B., stated that they brought the copies in the Confidential Office of the B.S.E.B. where the petitioners were posted as Assistant and Section Officer. It has further come that by the order of the Secretary of the B.S.E.B., namely, Sri Harihar Nath Jha, again the Evaluation Center of the copies of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur was changed from the B.S.E.B. Center to Rajkiye Balak Uchcha Vidyalaya, Rajendra Nagar, Patna vide letter no. BSEB SS 127/SC/16 but who brought the copies from the Evaluation Center again to the Confidential Office has not been investigated upon. The petitioners have been made accused in the case only because the

Investigating Officer inspected the Confidential Office and seized the copies and the marks sheets from the Confidential Office and the petitioners were interrogated. On the confession of the petitioners, the petitioners have been made accused in the case but what role was played by the petitioners has not been investigated. It also appears that the scam was afoot at the behest of high officials, such as, the Chairman of the B.S.E.B., the Principal Secretary, Department of Education, Government of Bihar, the District Magistrate, Vaishali Hajipur, and the District Education Officer, Vaishali, who firstly changed the Examination Center of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur from one center to another. Thereafter, the center for evaluation of the answer books of the students of Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur was fixed at the B.S.E.B. Center and again the same was changed to Rajkiye Balak Uchcha Vidyalaya, Rajendra Nagar, Patna but none of the officials and evaluators have been examined during the course of investigation nor the Investigation Officer enquired from the Principal Secretary, Department of Education, Government of Bihar, the District Magistrate, Vaishali Hajipur and the District Education Officer, Vaishali as to under what circumstances the Examination Center and the Evaluation Center

of only Vishundeo Rai College, Kiratpur, Rajaram, Bhagwanpur, Vaishali, Hajipur were changed from one place to another in a very exceptional manner.

Considering the facts aforesaid, the petitioners, namely, Rajeet Kumar Mishra and Shambhu Nath Das are directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, Vigilance I, Patna in Special Case No. 32/2016, arising out of Kotwali P.S. Case No. 270/2016 / G.R. No. 3528/2016.

(Prabhat Kumar Jha, J)

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