

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16941 of 2015

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1. Zainul Abdin S/o Wazid Ali, R/o Village- Baura, Post- Musapur, P.S.- Korha, District- Katihar.

2. Md. Athar Ali S/o Md. Sabir Alam R/o Kanhauli Azraqb, Bela Road, P.S.- Mithanpura, P.S.- Ramna, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Education Department, Government of Bihar, Patna.

3. The Secretary, Bihar School Examination Board, Patna.

4. The Secretary, National Council For Teacher Education, 15, (Wing-2), Hans Bhawan-1, Bahadur Sah Jafar Marg, New Delhi-110002.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Syed Arshad Alam Mr. S. Faiyazuddin Ahmad Ms. Anjum Perveen
For the Respondent/s	:	Mr. U. S. S. SINGH- GP-19
For the NCTE	:	Mr. S. N. Pathak
For the BSEB	:	Mr. S. S. Mishra

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 11-11-2016

Heard learned counsel for the parties.

The two petitioners have filed the writ application,
seeking following reliefs:

a) To direct the respondents to issue appointment letter to these petitioners as Assistant Teachers in Urdu subject in Primary / Middle Government Schools on the basis of first result published in the daily newspaper "Hindustan", showing them qualified in paper - I and paper - II in Bihar Elementary Urdu / Bangala (Special) Teacher Eligibility Test, 2013, conducted by Bihar School Examination Board.

b) To direct the respondents to only delete three questions in the event of re-evaluation out of thirteen questions pointed out by the Committee constituted by respondent Bihar School Examination Board.

c) To stay the entire process of appointment arising out of Bihar Elementary Urdu / Bangala (Special) Teacher

Eligibility Test, 2013, conducted by Bihar School Examination Board.

There is a background under which the petitioners have approached the High Court. The background is that the Bihar School Examination Board, Patna had conducted an examination, known as Bihar Elementary Urdu and Bangala (Special) Teachers Eligibility Test, 2013 for appointment on the post of Urdu and Bangala Teachers in the primary and middle schools in the State of Bihar. After the results came to be declared, on receipt of objections from the examinees as to the questions and the answers, the State of Bihar had carried out certain deliberations. Some of the objections were found to be correct. But the matter did not rest at that, because some more objections were filed by the candidates. This compelled the respondents to have yet another look on those objections. The second expert committee also gave its opinion, but they were varied on some of the questions. A third committee, therefore, was again constituted and based on the recommendation of the third expert committee a final result was announced.

Every recommendation, therefore, had a fall out on the candidates, who either qualified or did not qualify. With these kinds of controversies the matter traveled to the High Court. There were large numbers of petitioners, who approached the Court, seeking relief of one kind or the other. They all basically challenged the final result. Petitioners are victims of the final result declared on the basis of the third expert committee's recommendation.

This Bench had the privilege of hearing the counsels for the parties extensively in the earlier writs. The Court gave adequate opportunity to one and all to place there facts and law and in fact the Court also went to the extent of even looking at some of the records and the decisions, which were also brought by way of affidavits.

All these cases came to be heard together and decided as a batch case and the relevant order is dated 06.05.2015, passed in the leading case, which was C. W. J. C. No. 2650 of 2015, i.e., the case of Abdul Mazid. The Court concluded by giving a direction that all other earlier results will be of no avail and will be treated to have been annulled. The fresh result will be declared on the basis of the deleted questions.

Obviously, the decision did not satisfy certain candidates since it did not suit them. The matter traveled before a Division Bench in L. P. A. No. 1287 of 2015. The Court is informed that the Division Bench upheld the decision of the Learned Single Judge and the Division Bench's decision has now been affirmed by the Hon'ble Supreme Court.

The two petitioners now through the valiant effort made by their learned counsel want to reopen the controversy and put the entire process of selection and appointment in disarray. The Court has reasons to state so, because now a plea is taken that instead of evaluation of the answer-sheet on the basis of 13 deleted questions, 13 answers of some of these candidates which include the

petitioners came to be deleted irrationally and randomly.

The Court grilled the counsels or the petitioners as to what is the basis or the material brought before the Court to reconsider such issue afresh, when the issue stood finally decided right up till the Apex Court. These assertions are mere speculation, if not an effort to get a foothold for a failed candidate, rather than a genuine kind of grievance with regard to the evaluation, which have been made on the basis of the direction of the Court.

In totality, therefore, a settled issue cannot be unsettled that too without any substantive material and evidence being on record.

The writ application, therefore, is merely to take a chance and is speculative in nature.

The Court cannot proceed in favour of the petitioners in the above background. The issue must rest now. The Court is also informed that the process of appointment has already been initiated and even appointments have been made on the basis of the previous decision and direction of the Court.

The writ application, therefore, does not have any merit and it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	AFR
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