

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1615 of 2012

IN

Civil Writ Jurisdiction Case No. 10575 of 2012

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Secretary, Bihar School Examination Board, Patna

.... Appellant

Versus

1. Baijnath Prasad, Son of Late Somar Mahto, Head Master, Gautam Budha High School, Tetranwan, P.S. Manpur, District Nalanda
2. Sachidanand Sinha, Son of Late Ram Kishore Prasad, Head Master, R.S. High School, Dhurgaon, Madanpur, P.S. Dhurgaon, Ekangarsarai, District Nalanda
3. Srichand Prasad, Son of Late Shri Ramrup Mahto, Head Master, High School, Saura, P.S. Ven, District - Nalanda
4. Yogendra Prasad Singh, Son of Late Jagdip Singh, Head Master, R.C.S. High School, Damodar Sarai, Manpur, P.S. Hilsa, District Nalanda
5. Kumar Shashi Bhusan Sinha, Son of Late Bansi Prasad Head Master, Janta High School Utarthu, P.S. Bind, District Nalanda
6. State of Bihar
7. The Director, Secondary Education, Government of Bihar (H.R.D.)
8. The District Magistrate, Nalanda
9. The Civil Surgeon cum C.M.O. Nalanda
10. The District Education Officer, Nalanda

.... Respondents

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Appearance :

For the Appellants : Mr. Satyabir Bharti, Advocate
For the Respondents : Mr. Diwakar Pd. Singh, Advocate
For the State : Mr. Anuj Kumar, AC to SC-7

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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: 10-02-2016

Heard Sri Satyabir Bharti, learned counsel
appearing for the Bihar School Examination Board, Patna (hereinafter
referred to as the Board) and Sri Diwakar Prasad Singh, learned
counsel for the contesting respondents, who were the writ petitioners,
and with their consent this appeal is being disposed of at this stage

itself.

This intra-court appeal, under Clause-10 of the Letters Patent of the Patna High Court, has been filed by the Board being aggrieved by the judgment and order dated 26.06.2012, passed in C.W.J.C. No. 10575 of 2012, whereby and whereunder the learned Single Judge allowed the writ petition and set aside the orders of the Board withholding the results of the students appertaining to the alleged school of the writ petitioners and calling the students for physical examination to ascertain their age. The learned Single Judge was of the view that in the admission register produced, the age of the students was duly noted and they were students of that school for a number of years, which could not be doubted. Thus, the directions of the Board withholding the results of matriculation examination subject to age verification and consequential correction was set aside.

Sri Satyabir Bharti, learned counsel for the Board submits that the writ petitioners were Headmasters of institutions who were permitted to establish schools. As situation then prevailing, those schools, which had been permitted to be established and had not yet been recognized, were allowed to admit the students. Having admitted the students they were allowed to register with the Board and permit the students thereof to appear in the Board examination for matriculation. It so happened that five schools, all established within



the district of Nalanda, had their examination centres at different places. While the matriculation examination was being conducted, the examiners and the officers of the Board visiting the examination centres allegedly found that the students to whom admit cards were issued, who should generally be about 14 to 15 years old, physically appeared much older. This was in respect of both boys and girls. Majority of them appeared to be above 20 years of age though they were showing themselves to be 15 or 16 as per the admit card. Upon this report being filed the Board took a decision to withhold the declaration of results because in matriculation certificates the date of birth is to be given which is very material for all future purposes and it is the responsibility of the Board to ensure its correctness. The Board appears to have taken a decision that if upon physical/ medical examination the age found by the Medical Board would be about within two years of the declared age, it would be accepted but any variation beyond two years the registered age would have to be altered and amended accordingly. Large number of students did appear for medical examination. In some cases, age was written as declared but in some cases there was larger than normal variation and changes were effected. He submits further that the apprehension of the Board appears to be correct because if what all the students professed was their correct age then they need not have any fear in appearing before

the Medical Board. He further submitted that these are seriously disputed questions of fact. Mere entry in the admission registers, when the facts speak otherwise, cannot form the basis of proof of the correctness for the statements made therein. Thus, we are of the view that the learned Singh Judge was clearly in error in interfering in such a controversial matter. If the writ petitioners were sanguine about the correctness of the entries made in their admission registers then they ought not to have harboured any fear in this regard and rushed to the Court to stop verification process. Thus, we have no option but to allow this appeal and set aside the order of the learned Single Judge and dismiss the writ petition.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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