

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9855 of 2017

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1. Priyanka Kumari, D/o Chandeshwar Prasad, Resident of Village & P.O.- Nawadih, P.S. Indrapuri, District- Rohtas, Bihar.

2. Mamta Kumari, D/o Laxmi Mahto, Resident of Village- Pandh, P.O. Chakbahauddin, P.S. Dalsingh Sarai, District- Samastipur, Bihar.

3. Sameer Ranjan, S/o Tripurari Mishra, resident of Church Road Chandwara, Muzaffarpur, Bihar.

4. Seema Singh, D/o Narendra Kumar Singh, Resident of Village- Loknathpur, P.O. + P.S. Dalsingh Sarai, District- Samastipur, Bihar.

.... Petitioner/s

Versus

1. The Bihar School Examination Board, Patna through its Secretary, Bihar School Examination Board, Patna.

2. The Chairman, Bihar School Examination Board, Patna.

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar
Mr. Abhishek Anand, Advocates

For the Respondent/s : Mr. Lalit Kishore, Sr. Advocate
Mr. Satyabir Bharti,
Ms. Aparna Arun, Advocates

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 21-07-2017 Heard Mr. Umesh Kumar, learned counsel for the petitioner and Mr. Satyabir Bharti, learned counsel for the respondents.

The present writ application, which has been notified today, since the bench having the roster is not available, is being taken up at 3.15 P.M. on the prayer of the learned counsel for the petitioner with the consent of the respondents, concerning



an issue relating to appearance in the Bihar Elementary Teacher (training) Eligibility Test, 2017 (hereinafter referred to as the 'BETET'), conducted by the respondent Bihar School Examination Board, Patna (hereinafter referred to as the 'Board'), scheduled to be held on 23.7.2017.

This writ application has been filed for a direction to the respondents to allow some corrections in the profile/application forms/e-receipt of the petitioners in the website of the Board and to issue Admit Card in favour of the petitioners for appearing in the BETET, which is going to be held on 23rd July, 2017.

BETET is the qualifying examination for becoming eligible to be appointed as teacher in the Primary schools of the State of Bihar.

It is submitted by learned counsel for the petitioners that all the four petitioners are graduates and have also passed the Bachelor of Education examination. The Board issued Advertisement No. 42/2017, for BETET, fixing the date of examination as 11.6.2017. The petitioners applied for the same. The applicants were given several opportunities through the initial Advertisement as well as through subsequent advertisements to



make corrections in the application/profile but ultimately candidature of the petitioners and others were cancelled vide Advertisement No. 57 of 2017, dated 1.6.2017, since the defects could not be removed. However, vide Advertisement No.61/2017, the applicants were given last indulgence to make necessary correction between 30.6.2017 to 2.7.2017 with regard to the defect in photographs and signature. The said advertisement was published in the newspaper and was also uploaded on the website of the Board, but the petitioners failed to make necessary correction in their respective profile/application forms/e-receipt, since the server of the website of the Board was not in order at the relevant time or the wrong entries were made at the end of the Board. The Board is conducting the present examination after a period of more than six years, hence, if the petitioners will not be allowed to appear in the said examination, they will suffer irreparable loss. It is further submitted that this is not in dispute that the petitioners applied and tried to make necessary corrections therein also, but due to some technical snag, they could not make such correction but they are ready to make correction even today. So far as petitioner no. 3, Sameer Ranjan is concerned, there is only one defect, the last alphabet 'r' in the



first name Sameer is missing in his application/ profile, which appears to be a bonafide mistake. The petitioners submitted representation before the Secretary of the Board, as contained in Annexure 6 series, but even then the petitioners have not been given the opportunity to make the necessary correction. Thus, the petitioners are at risk to suffer irreparable loss, if they are not allowed to correct the defects, in their respective application forms, by the Board. Hence, the present writ application.

Mr. Satyabir Bharti, learned counsel for the Board submits that though no counter affidavit has been filed on behalf of the Board, but, since he has given consent for out of turn hearing, considering the nature of urgency involved, he is ready to argue without counter affidavit, as he has taken necessary instructions. Learned Counsel for the Board has produced the Xerox copies of Advertisement Nos. 42/2017, 52/2017 and 54/2017, whereby the advertisement was made for such examination and opportunities were given to the applicants to make correction in the application forms/profile. The genuineness of the same has not been disputed by the Counsel for the petitioners, as all the advertisements were uploaded on the website of the Board, at the relevant time. Let those



advertisements be kept on record.

Learned Counsel for the Board further submits that initially Advertisement No. 42/2017, dated 4.4.2017, was issued under the signature of the Examination Controller of the Board, depicting the date of filling up the forms for BETET, date for removal of defects in application forms and the date of examination. The last date for filling up of the form and making online correction in the application form were indicated in Column 2 and Column 4 as 25.4.2017 and 28.4.2017, respectively. Thereafter, Advertisement No. 52/2017 (uploaded on the website of the Board) was notified on 29.4.2017, under the signature of the Examination Controller of the Board, whereby online corrections in the application forms were permitted to be made between 5.5.2017 to 8.5.2017 and thereafter, vide Advertisement No. 54/2017, dated 17.5.2017, the applicants were permitted to make online correction in the application forms between 18.5.2017 to 20.5.2017 and ultimately, vide Advertisement No. 57/2017, dated 30.5.2017, issued through Memo No. K-237, dated 1.6.2017, the candidature of such applicants, who failed to make required correction in their profile/application, was cancelled, on the ground that despite



being provided with three consecutive opportunities, through advertisements uploaded on the website of the Board, the candidates failed to make the necessary corrections. It is submitted that the petitioners deliberately chose not to make correction in their profile/application, despite being given three opportunities, while the writ application has been filed on 14.7.2017, after an inordinate delay. Since large number of candidates are appearing in the said Examination which is going to be held, on 23.7.2017 i.e. day after tomorrow, hence Board is not in a position to get any correction made at this juncture. Moreover, allowing such prayer of the petitioners will open a flood-gate for other such ineligible candidates, who are over thirty thousand in number.

It is next submitted by the learned Counsel for the Board that so far as petitioner no. 3 is concerned, his application is not being treated as defective and he has accordingly been permitted to appear in the Examination.

Learned Counsel for the Board has drawn my attention to the case of Bittu Kumar Vs. The State of Bihar though the Chief Secretary and Ors. 2016(2) PLJR 293, wherein the petitioner was barred from participating in the examination for appointment on the post of Lecturer in the Government



Polytechnic Colleges in the State of Bihar, since, the petitioner in the said case failed to fill up all the required columns in the application form. A bench of this Court declined to grant relief on two grounds – firstly, since the applications were invited for the appointment on the post of lecturer in the Government polytechnic colleges of the State of Bihar, hence defect in filling up required columns of the same was treated as serious omissions on the part of the applicant and secondly, that granting relief to the petitioner would amount to giving a march or advantage, over all ineligible, applicants who failed to carry out the instructions indicated in the advertisement as well as in the application form.

Having heard learned Counsels for the parties, this Court is not deliberating the specific defects, which cropped up in the application form of each candidate. On perusal of all the advertisements brought on record, it appears that through the initial advertisement published vide Memo No. K/145 dated 4.4.2017, the last date of filling up of the form was 25.4.2017 and the applicants were permitted to make online correction on 28.4.2017. Thereafter, vide Advertisement No. 52/2017, the candidates were given another chance to make online correction required to be made in their application forms between 5.5.2017



to 8.5.2017. Again, vide Advertisement No. 54/2017, they were given opportunity to make necessary online correction between 18.5.2017 to 20.5.2017 and, lastly, vide Advertisement No. 57/2017 dated 30.5.2017, the candidature of such applicants was cancelled, since they failed to make correction in their application form. The petitioners have brought on record Advertisement No. 61 of 2017 (Annexure 5), whereby limited defects with regard to photograph and signature were permitted to be removed between 30.6.2017 to 2.7.2017 till 6 P.M. Though the said advertisement has not been produced by the learned counsel for the Board, but even after ignoring the last advertisement, whereby, correction was permitted to be made for a limited purpose, it is an admitted position that the petitioners and others were given three opportunities to make correction, still they failed to avail such opportunity.

It appears from perusal of the application of petitioner no. 1, Priyanka Kumari, that instead of making required correction, the change in basic profile has been sought to be made by changing the subject matter. Though representation addressed to the Secretary of the Board, submitted by petitioner nos. 2 and 4 i.e., Mamta Kumari and Seema Singh respectively, for allowing



them to make correction, have been brought on record as Annexure 6 series but the representations do not bear any date or suggest that they were received in the office of the Secretary of the Board. Since it is pleaded in the writ application that the petitioners tried to make corrections but failed to do so, hence, they cannot deny the knowledge of opportunities being given to them through the aforementioned advertisements. Hence, such laches cannot be treated to be bonafide mistake or sheer negligence, but appears to be a deliberate lapse, perhaps, in view of the fact that the entire Bachelor of Education Course, particularly, the bonafide of such institutions and the mode of their examination had been under cloud in the State of Bihar, in recent past, which led to lodging of several criminal cases. Hence, it was probably for this reason that thirty thousand applicants chose not to make corrections in their application forms, in spite of being given several opportunities.

It appears from the advertisements that the cause of action to the petitioners first arose on 28.4.2017, when the first opportunity for making online correction was provided, but it was not availed and thereafter, on 8.5.2017, and then on 20.5.2017, but, there is nothing on record to show that the authorities in the



Board were intimated by the petitioners that they have failed to make required online corrections in their application forms. Accordingly, their candidature was cancelled vide Advertisement No. 57/2017, dated 30.5.2017, but the same has neither been brought on record nor has been challenged in the present writ application. The writ application got registered on 14.7.2017, and for the first time, it has been mentioned for being heard out of turn through mentioning slip dated 19.7.2017, and it has been notified before this Court today afternoon in pursuance of the mentioning slip dated 21.7.2017.

The petitioners are applicants for BETET, the candidates being qualified at the said examination, became eligible for being appointed as teachers in the Primary Schools of the State of Bihar and if they failed to fill up the form properly or make necessary online correction, despite being given adequate opportunities, it is a serious omission on the part of the petitioners who are double graduates, hence, this Court is not inclined to exercise the discretionary jurisdiction in favour of such applicants, as the law and equity assist and aid those who are vigilant with their rights and not for those who sleep over their rights and are indolent. Moreover, the examination is going to be



held on 23.7.2017 and matter has been heard on 21.7.2017 at 3.30 P.M., hence there is hardly any time for the Board to allow candidates to make such correction. Above all, grant of such relief will allow the petitioners to have a march over the other ineligible candidates who are thirty thousand in number.

Accordingly, learned counsel for the petitioners is permitted to withdraw this writ application with regard to petitioner no. 3, Sameer Ranjan, since the same has become infructuous as against him. So far as petitioner nos. 1,2 and 4 are concerned, this writ application stands dismissed.

(Dinesh Kumar Singh, J)

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