

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5081 of 2016

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Devanand Prasad, Son of Baliram Prasad, resident of village Dhabachhuan, Post Sikraul (Lakh), P.S. Navanagar, District- Buxar

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Science & Technology, Govt. of Bihar, Patna
3. The Director, Department of Science & Technology, Govt. of Bihar, Patna
4. The Controller of Examination, Bihar Combined Entrance Competitive Examination Board, I.A.S. Association Building, near Patna Aairport, Patna- 14
5. The Principal, Government Polytechnic, Gulzarbagh, Patna- 7
6. Director Forensic Science Laboratory, Bailey Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamlesh Prasad Yadav

For the Respondent No.1: Mr. Rajeev Roy, G.P. 1

For the Respondent BCECE Board : Mr. Vikas Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 07-04-2017

The petitioner had appeared in the written test held for admission in Diploma Course. He was declared successful on the basis of written test. It is the practice, which has been adopted by the Bihar Combined Entrance Competitive Examination Board (In short “BCECE Board”) to compare the handwriting of an examinee taken at the time of written examination asking him write a passage in Hindi at the time of counselling conducted by BCECE Board. The procedure is that the same passage, which the candidate was made to write at the time of written examination, he is made to write again at the time



of counselling, if he succeeds in the written examination. Both the handwritings are thereafter compared in course of counselling.

2. Handwriting of the petitioner taken at the time of counselling was found to be differing from the handwriting taken at the time of examination. There being difference in handwriting, the matter was referred to Forensic Science Laboratory (F.S.L.) for verification. The petitioner was, however, allowed admission provisionally on an undertaking given by him that his admission will be subject to result of the F.S.L. report.

3. The petitioner was admitted in diploma course in 2012. The F.S.L. report came in 2015. In the meanwhile, the petitioner continued his course and he is said to have appeared in the 6th semester examination of the said course. After receiving F.S.L. report his very admission has been cancelled by the BCECE Board after giving him an opportunity of hearing. The petitioner is aggrieved by the said action of the BCECE Board.

4. Learned counsel for the petitioner has submitted that this Court may take a sympathetic view of the matter inasmuch as the petitioner has almost completed the entire course of three years.

5. Learned counsel appearing on behalf of the BCECE Board, on the other hand, submitted that in similar circumstances, Benches of this Court including a Division Bench has refused to



interfere with the decision of the Board to cancel the very admission. According to him, since the petitioner’s selection on the basis of written test itself was based on fraud committed by him, no benefit can be given to him.

6. I find substance in the submission of the respondent Board. The law or equity cannot in any circumstance favour a fraud. The petitioner was given adequate opportunity of hearing, which is not in dispute. The report of Forensic Science Laboratory indicates that the petitioner was declared successful in the written examination on the basis of impersonation. I may usefully refer to the Supreme Court decision in the case of *Nidhi Karim V s. State of M.P.* reported in *2017(2) Scale 626* wherein the Supreme Court sustained the order of cancellation of admission obtained by fraud of such candidate who had completed in their M.B.B.S. course.

7. The petition has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

BTiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20-06-2017
Transmission Date	

