

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1446 of 2013
IN
Civil Writ Jurisdiction Case No. 3815 of 2009**

- =====
1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Vikash Bhawan, Patna
 2. The Director, Secondary Education, Vikash Bhawan, Patna
 3. The District Magistrate, Patna
 4. The District Education Officer, Patna
 5. The Principal, Dr. B.R.K. Jalan Inter School, Patnacity
 6. Secretary, Bihar School Examination Board, Patna

.... Appellant/s

Versus

Dig Vijay Kumar, son of Late Yogeshwar Paswan, Resident of Village- Paroha,
P.S. Manpur, District Nalanda

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Anjani Kumar, Sr. Advocate, AAG 4
Mr Deepak Sahay Jamuar, AC to AAG 4
For the Pvt. Respondent : Mr. Alim Jang Khan
For Examination Board : Mr Gyan Shankar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-04-2017

Heard learned senior counsel representing the State of Bihar, Mr Alim Jang Khan representing the private respondent and the counsel representing Bihar School Examination Board, who was ordered to be impleaded vide order dated 8.3.2017.

Counter affidavit on behalf of Bihar School Examination Board has been filed after due service upon the appellant as well as the private respondent. This is what the Examination Board had to



say in paragraphs 6 to 8 :

“6. That the present context it is submitted that after receipt of the document, pertaining to passing of the matriculation examination of 1996 relating to the private respondent, the issue of genuineness of the said certificate, marks sheet & other relating documents, have been looked into carefully and duly verified with the connecting records pertaining to the said matriculating examination of 1996 at the Board i.e. the respective tabulation register of the said examination.

7. That in this respect it is humbly submitted that the details as given in the marks sheet and certificate of the said matriculation examination in question obtained under Roll Code 07318, Roll No.0187 of the Annual Secondary School Examination 1996, have been verified carefully from the Tabulation Register available at the Board, the relevant details have been found at DTR Group No.170 Page No.1674, which are as follows :-

*Roll Code- 07318
Roll Number- 0187
Year of Examination – 1996 (A)
Name of Candidate- RAJ KUMAR YADAV
Father's Name- BHIKHARI Yadav
Date of Birth- 10.01.1980 (10th January 1980)
Total Marks- 267 (Two hundred sixty seven),
Division- Fail*

8. That it is submitted that the details as given above has been corroborated with the computerized system at the Board containing the relevant information with respect to the said matriculation examination in question.”

On being confronted with the above stand of the Bihar School Examination Board, counsel representing the private respondent has nothing to offer as a matter of defence or explanation.



His stand is what is emerging from findings given by the learned Single Judge in the order impugned dated 22.2.2012.

The very foundation based on which relief had been granted to the private respondent, namely, Dig Vijay Kumar, is completely knocked out by the position emerging from finding of the Bihar School Examination Board. If the basic educational qualification, which formed the basis for the so-called appointment and claim of salary, is not authentic or cannot be corroborated to be authentic then all the observations and direction given by the learned Single Judge in his order dated 22.2.2012 have to go.

The appeal is allowed. The impugned order dated 22.2.2012 passed in CWJC No.3815 of 2009 is set aside.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

sk

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

