

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17259 of 2015

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Amar Bhushan Prakash, S/o- Sri Prakash Singh, R/o- Sharda Nagar, Rosera Samastipur, District- Samastipur, Pin-848210.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary & State Commissioner (Disabilities), Office of the State Commissioner Disability, Social welfare Dept., Govt. of Bihar, Patna.
2. The Secretary & State Commissioner (Disabilities), Office of the State Commissioner Disability, Social Welfare Dept., Govt. of Bihar, Patna.
3. The Additional Commissioner (Disabilities), Office of the State Commissioner Disability, Social Welfare Dept., Govt. of Bihar, Patna.
4. The Director, Social Security & Disability, Social Welfare Dept., Govt. of Bihar, Patna.
5. The Principal Secretary, Department of Education, Government of Bihar, Patna.
6. The Director Primary Education, Department of Education, Government of Bihar, Patna.
7. The Director, State Council of Educational Research & Training, Bihar, Department of Education, Government of Bihar, Patna.
8. The Bihar School Examination Board, Patna, through its Secretary.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.K. Jha, Adv.
For the State : Mr. Rajiv Roy, GP-1
For the BSEB : Mr. Purnendu Singh, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 06-04-2017

The petitioner is a differently abled person, suffering from 60% disability. He had participated in Bihar Elementary Teacher Eligibility Test, 2011 (BETET). The said test consisted of two papers. The petitioner secured 55.33% marks in the 1st paper and 46.66% marks in the 2nd paper. On the basis that the minimum marks required for passing the said test is 55% in each of the papers, he has been declared to be not qualified inasmuch as he could not secure 55% marks or more in paper 2nd.

2. Heard learned counsel, appearing on behalf of the petitioner, learned Government Pleader No. 1, appearing on behalf of the State of Bihar, and learned counsel representing Bihar School Examination Board, Patna-respondent No. 8.

3. The petitioner claims that in the light of policy decision of the State Government, as contained in letter No. 6706, dated 01.10.2008, issued by the Department of Personal and Administrative Reforms, Government of Bihar, 32% marks has been fixed as the minimum qualifying marks and, therefore, the petitioner ought not to have been declared disqualified, on the basis that his score in paper 2nd was less



than 55%.

4. Learned counsel, appearing on behalf of the petitioner, has submitted that the State-respondents ought not to have gone contrary to the policy decision of the State Government, on the point of fixing minimum qualifying marks as contained in letter, dated 01.10.2008.

5. A counter affidavit has been filed on behalf of the Director, State Council of Educational Research & Training (**SCERT** *in short*), Bihar-respondent No. 7. The said examination was conducted by the Bihar School Examination Board under the aegis of the SCERT.

6. My attention has been drawn to Annexure-A/7 of the counter affidavit, so filed on behalf of respondent No. 7, which is a communication, made by the National Council for Teacher Education, addressed to all Secretaries/Commissioners of Education of State Governments/Union Territories, dated 11.02.2011, containing guidelines for conducting Teacher Eligibility Test (TET). It is the case of respondent No. 7 that present TET has been held in accordance with the guidelines so prescribed. Clause-9 of the said guidelines provides that the person, who scores 60% or more in the TET exam will be considered as TET pass. The school managements/government/local bodies have been allowed to consider giving concessions to persons belonging



to Scheduled Castes/Scheduled Tribes and Other Backward Class, differently abled persons in accordance with their extant reservation policy. My attention has also been drawn to Information Bulletin, issued by SCERT, wherein, 5% concession has been given to the candidates belonging to Scheduled Castes/Scheduled Tribes, women and differently abled candidates.

7. Mr. Rajiv Roy, learned Government Pleader No. 1, appearing on behalf of the State of Bihar, has submitted that the petitioner had participated in 2011 Examination, knowing well the minimum marks fixed for clearing TET for differently abled persons. According to him, after having participated in the said test, the petitioner cannot turn around to challenge the very fixation of minimum marks.

8. After having seen the pleadings on record and considering the submissions, so advanced on behalf of the parties, I am of the considered view that reliance placed on behalf of the petitioner on communication, dated 01.10.2008, to contend that 32% marks ought to have been fixed as the minimum qualifying marks for TET, is misconceived. The said 32% marks in the communication, dated 01.10.2008 (Annexure-4 to the writ application), prescribes the minimum eligibility criteria in terms of educational qualification for appearing at TET. Illustratively, if matriculation is the



minimum qualifying marks for appearing at TET, one must have at least 32% marks at matriculation level; if the intermediate is the minimum educational qualification prescribed, a candidate must have minimum 32% marks at that level for being eligible to appear at the examination. The word "*Aharta*" means eligibility to appear in the test and does not refer to minimum marks which the person should secure for the purpose of clearing test.

9. I, therefore, do not find any merit in this application. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10.04.17
Transmission Date	

