

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 19113 of 2016

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Ramakant Prasad Singh, Son of Late Strughan Prasad, Resident of Mohalla - Pani Tanki Campus, P.S. - Alamganj, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Director, Bihar Secondary Education, Government of Bihar, Patna.
3. The Controller of Examination, Bihar T.E.T. Examination - 2011, Government of Bihar, Patna.
4. The Chairman, Bihar School Examination Board, Bihar, Patna.
5. The Secretary, Bihar School Examination Board, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate
For the B.S.E.B.	:	Mr. Lalit Kishore, A.G.
		Mr. Satyabir Bharti, Advocate
For the State	:	Mr. Jitendra Kumar Roy-1, S.C. 13

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 18-09-2017

Heard learned counsel for the petitioner, State and

Mr. Lalit Kishore, learned Advocate General for the Bihar School Examination Board (hereinafter referred to as the 'Board').

2. The petitioner has moved the Court for the following reliefs:-

“1. That by the present petition, the poor and helpless unemployed petitioner craves indulgence before this Hon’ble Court for issuance of a writ in the nature of certiorari for setting aside the order dated 19-7-12 being Memo No. K/374 contained in Annexure-3, issued by Secretary Bihar School Examination Board, Bihar, Patna and further for directing the respondents to declare the petitioner passed in



B.S.I.T.E.T. Examination 2011 and to appoint him on the post of Secondary Teachers with all arrears, current and consequential benefits, alongwith appropriate interest, cost and compensation. And further for directing the Respondents to make vigilance investigation of the fact that why the Respondents have disposed/destroyed Answer Sheet of the petitioner within 25 days where as according to section 26 of Bihar School Examination Board Regulation(Annexure-2), copy must have been preserved for not less than 3 months from the date of publication of the result i.e. on 14-06-2012, in case of this petitioner, Mega Merit Scheme have been committed by the Respondents in Appointment of Secondary Teachers on the basis of publication of fake TET passed students according to their own choice on the basis of erroneous consideration due to which such teachers have been appointed who can not write spelling of 'Elephant' & 'country' etc and they cannot say the name of President of India, capital of India or of his/her own state and further for issuance of any other writ or writs, direction or directions as it may be deemed fit and proper to the facts and circumstances of this case."

3. The sum and substance of the grievance is that the petitioner having appeared at the B.S.I.T.E.T. Examination, 2011, upon the results being declared, he had applied under the Right to Information Act for copy of his OMR answerbook and even the time specified as per the Regulation 26 of the Bihar School Examination Board Regulations, 1964 (hereinafter referred to as the 'Regulations'), the same was refused on the ground that the OMR answerbook had been sent to another agency for evaluation.



4. Learned counsel for the petitioner contended that as per Clause 26 of the Regulations, from the date of declaration, the answerbook has to be kept for at least 90 days, and the petitioner having applied much within the said period, it was obligatory on the part of the respondents, especially the Board, to supply him a copy thereof.

5. In view of there being a categorical stand taken on behalf of the Board, that as of now, due to the answerbook having been destroyed, the copy of the same cannot be provided to the petitioner.

6. Due to the stand taken on behalf of the Board that what has been done in the past was correct, the Court had called the Chairman and Law Officer of the Board, who have appeared.

7. 3rd supplementary counter affidavit has also been filed on behalf of the Board, personally affirmed by the Chairman, in which a categorical stand has been taken that what has been done in the case of the petitioner was not in accordance with law and improper, for which recommendation has been made for taking action. It has further been undertaken that taking a cue from the present issue, the answering deponent undertakes that all possible measures would be undertaken so that incident like the present one may not recur in future.



8. The Court, at this stage, would only observe that because of the fact that the original copy of the answer book of the petitioner has been destroyed/not available with the Board, now there cannot be any direction to issue a copy of the same. The Court would clarify that this does not mean that what has been done was correct.

9. The Court would also not hesitate to record that what has been done was totally against the provisions of the Regulations.

10. In view of the aforesaid, the writ petition stands disposed off taking note of the undertaking given that corrective measures shall be taken to ensure that such incident does not recur in future. It shall further be ensured that the statutory provisions, especially of the Regulations are strictly adhered to.

11. The personal appearance of the officers stands dispensed with.

(Ahsanuddin Amanullah, J.)

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