

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.559 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 12085 of 2015**

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Ashok Kumar son of Late Ram Nandan Singh, Resident of village- Pathrahat, P.O. Pathrahat, Via- Punpun, District- Patna.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Secondary Education Department, Government of Bihar, Patna.
4. The Bihar School Examination Board, Patna through its Secretary.
5. The Secretary, Bihar School Examination Board, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Suman Kumar, Advocate
For the Respondent/s :

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL JUDGMENT**

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 21-02-2017

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench on 18th of February, 2016 in C.W.J.C. No. 12085 of 2015 whereby, the writ application filed by the appellant for re-evaluation of marks was dismissed.

2. The appellant appeared in the Bihar Secondary/Senior Secondary Teacher Eligibility Test, 2011 conducted on 17th of February, 2012. On the basis of multiple choice questions, the appellant did not qualify the test as he was awarded 81 marks out of 150 marks.

3. The grievance of the appellant is that the examination



consisted of two papers (Paper-I and Paper-II). Paper-I was related to appointment of Secondary School Teacher, whereas Paper-II was related to Senior Secondary School Teachers i.e. teachers for Class-11 and 12. The appellant is a candidate, who appeared in Paper-I i.e. the Secondary School Teacher, choosing the subject Social Science (History and Political Science) for the examination. The result was declared on 14th of June, 2012. Aggrieved against the result, the appellant filed a representation for re-evaluation/rectification.

4. A writ application was filed by the petitioner bearing C.W.J.C. No.8051 of 2013 in which this Court directed to supply the copies of answer sheets if the same is applied under the Right to Information Act. Such document was supplied on 16th of February, 2015. The appellant asserts that he has given correct answer to Question No.95 but as per the answer key, the answer given by the appellant was treated to be incorrect. He relies upon a book published by N.C.E.R.T. in support of his argument that the answer given by him is correct.

5. The decision to finalize the answer key is of the Special Experts of the Board. Such answer key has been applied in respect to all candidates. This Court in exercise of writ jurisdiction does not sit as appellate authority to examine whether the answer given by the appellant is correct or not correct. Same and similar matter has been examined by this Court. This Court has examined



the question in the matter of judicial service in C.W.J.C. No. 11731 of 2015 (Ravindra Kumar Singh vs. The High Court of Judicature at Patna & ors.) decided on 8th of January, 2016 wherein the Court has negated re-evaluation of marks on the basis of alleged incorrect answer key. The Court held as under:-

“52. Reference may also be made to the Supreme Court’s decision in the case of **Secretary, West Bengal Council of Higher Secondary Education vs. Ayan Das [(2007) 8 SCC 242]**, wherein the Apex Court held that the Court should, normally, not direct re-assessment of answer sheets by another examiner in the absence of any specific statutory provision permitting such re-assessment. The relevant observations, made in the case of Ayan Das (Supra), read as under :-

“9. The permissibility of reassessment in the absence of statutory provision has been dealt with by this Court in several cases. The first of such cases is **Maharashtra State Board of Secondary and High Secondary Education vs. Paritosh Bhupeshkumar Sheth [(1984) 4 SCC 27: AIR 1984 SC 1543]**. It was observed in the said case that finality has to be the result of public examination and, in the absence of statutory provision, the court cannot direct reassessment/re-examination of answer scripts.”

54. (iii) In view of the Supreme Court’s decision in the case of **Mukesh Thakur** (supra) and other judicial pronouncements as noted above, we are of the



considered view that while exercising power of judicial review available under Article 226 of the Constitution of India, it is not permissible for this Court to take upon itself the task of Examiner/Selection Board and examine discrepancies and inconsistencies in the question paper and evaluation thereof, law to this effect has been laid down in most clear and unambiguous terms by the Supreme Court in the said decision, which was not brought to the notice of the Division Bench of this Court in case of **Kumod Kumar** (supra).”

6. In view of the said judgment, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

Narendra/-

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