

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10720 of 2017

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Aarushi Barnwal, Daughter of Sh. Rohit Kumar, Resident of Main Road, Fal Gali,
Post & Police Station- Nawada, District- Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education,
Government of Bihar, Patna.
2. The Director, Secondary Education, Government of Bihar, Patna.
3. The District Program Officer (Establishment), District-Nawada.
4. The District Education, Nawada.
5. The Secretary, Bihar School Examination Board, Patna.
6. The Controller of Examination, Bihar School Examination Board, Patna.
7. The Principal, Project Kanya Inter School, Nawadah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Nivedita Nirvikar, Adv.
Mr. Manoj Kumar, Adv.

For the State : Mr. Madhukar Mishra, AC to SC-16

For the Respondent No. 5 and 6 : Mr. Manish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 07-08-2017

The petitioner, being student of St. Joseph's School,
Nawadah, had cleared her Class-10th examination, held by the
Central Board of Secondary Education (*in short 'CBSE'*), with 9.2
CGPA. She, thereafter, started pursuing her 12th course in a school



affiliated to the Bihar School Examination Board (*in short* 'BSEB'). She was declared 'pass' with aggregate of 282 marks in second division. The result was declared on 30.05.2017. She had applied, before publication of Class-12th result, for Joint Entrance Examination (JEE) and she is said to have been selected for admission in Bachelor of Architecture course.

2. It seems that on the basis of marks, which she had scored in Class-12th examination, she was unable to secure admission in a Government Technical Institution. Additionally, she was not satisfied with the marks awarded by the BSEB in Class-12th examination. She, therefore, applied for scrutiny of marks allotted to her in two papers, namely, Physics and English. Originally, she had scored 10 marks in theory paper of Physics. After scrutiny, her marks have been reduced to 5, which decision is being assailed by the petitioner in the present proceeding. Effect of reduction is that she will be losing her admission to Bachelor of Architecture too.

3. Learned counsel, appearing on behalf of the petitioner, has submitted that the BSEB took a vindictive approach in lowering down the marks already awarded to the petitioner because she had applied for scrutiny. She has submitted that the original answer-sheets may be called for and action of the



respondent-BSEB may be looked into. She has placed reliance on a decision of this Court, dated 08.04.2017, passed in CWJC No. 7623 of 2016, whereby, in almost similar circumstance, this Court, finding the decision of making application for scrutiny, made by a young boy of less than 15 years, had directed the BSEB to treat him as if the petitioner of that case had not applied for scrutiny.

4. Learned counsel, appearing on behalf of the BSEB, on the other hand, has vehemently argued that it was the decision of the petitioner to get her answer-sheets scrutinized and if the result is alteration of marks, so awarded to her, she has no other option, but to accept it.

5. This is a peculiar situation, where young mind feels that, on the basis of performance at the examination, better marks ought to have been awarded to him/her. The said decision to apply for scrutiny of marks is apparently by a person, who is below 18 years of age. In the present case, the date of birth of the petitioner is 30.06.1999. She applied for scrutiny on 06.06.2017. If the BSEB is allowed to alter the marks from 10 to 5, the petitioner will be made to suffer for decision taken by her, by applying for scrutiny of the marks-sheet in Physics paper.

6. In my view, applying the principles of '*equity*' and following the reasoning given in the order, dated 08.04.2017, I



direct the BSEB to publish the petitioner’s result of Class-12th examination, ignoring the application, which she had filed for scrutiny of answer-sheet of Physics paper and consequence of such scrutiny.

7. This application is allowed to the extent as aforesaid.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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