

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14319 of 2007

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Pravin Kumar Pandey S/O Mithilesh Kumar Pandey, resident of village-
Chenari, P.S. Chenari, District-Rohtas

.... Petitioner/s

Versus

1. Bihar School Examination Board through its Secretary namely Barun Kumar; having its office at Sinha Library Road, Patna.
2. Chairman, Bihar School Examination Board, Sinha Library Road, Patna.
3. Secretary, Bihar School Examination Board, Patna Sinha Library Road, Patna.
4. Centre Superintendent, Bhuneshwari Raja College, Barh
5. Panchasheel High School, Kumhrar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajni Kant Jha, Advocate

For B.S.E.B. : Mr. Partha Sarthy, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

8 28-03-2017 The present writ application has been filed by the petitioner seeking direction to the respondents to issue original certificate to the petitioner of having passed Secondary School Examination, 2003 conducted by the Bihar School Examination Board.

Pursuant to order of this Court dated 27.03.2017, the Secretary, Bihar School Examination Board, Patna is personally present.

Briefly, narrated facts of the case are that the petitioner had appeared in the said examination with his Roll Code 7161 and No. 0603 at the examination centre, Bhuneshwari Raja College, Barh. It is the case of the petitioner that he was issued



mark sheet by the Bihar School Examination Board of having passed the said examination with First Division. The school where he had studied, issued School Leaving Certificate thereafter and got admission to pursue studies in Intermediate course. He is said to have passed the Intermediate Examination in the year 2006, his grievance is that for reasons unknown, the school and the Board are not making him available the certificate of having passed matriculation examination.

A counter affidavit has been filed on behalf of the Bihar School Examination Board stating therein that on 20.06.2003 when matriculation examination at the said S.B.R. College, Barh was being held, the Assistant Secretary of the Board was informed of some unfair means having been adopted by a candidate who was expelled from examination. Roll number of the said expelled candidate, who was found to be indulging in unfair means was not known. The Board is said to have sent a letter in this regard in May 2003 seeking information with respect to Roll Number of the expelled candidate. It is asserted in the counter affidavit that the Centre Superintendent in turn through his letter dated 07.05.2003 communicated that on the day of examination of English subject, a teacher had written “expelled” on answer sheets of two students and had sent it in the room of Centre



Superintendent. It is admitted that neither any chit was sent nor was any information in writing or the roll number of the petitioner. The Centre Superintendent in his said communication told the Board that neither he nor the Deputy Magistrate had expelled any candidate.

It further appears from the counter affidavit that subsequently the Board searched the answer sheets and found answer books of Roll No. 603 from which it transpired to the Board that the Centre Superintendent had misled the Board. On the cover page of the said answer sheet “expelled” was marked, which was signed by one Invigilator-Chandrika Prasad. In that view of the matter, result of the petitioner was withheld for further enquiry and the matter was referred to Unfair Means Enquiry Committee of the Board. The Unfair Means Enquiry Committee is said to have been examined the case and finally recommended for cancellation of petitioner’s result. The Committee also recommended for debarring the petitioner from appearing in the next year examination. It is also stated in the counter affidavit that the disciplinary action was suggested against the Centre Superintendent of the said examination centre also.

On the basis of what is there on record, it is evident that the petitioner was not given any opportunity to appear before



the Unfair Means Enquiry Committee to explain his conduct. There is nothing on record to show that any action has so far been taken against the Centre Superintendent. Further, there is no material on record to suggest as to in what manner the petitioner was found committing the act of unfair means inasmuch as no chit of paper has been mentioned anywhere which he was using for the purpose of adopting unfair means. There is no other material to support the allegation that the petitioner was using unfair means.

I have perused the answer sheet of English paper of the petitioner, which has been brought on record along with the counter affidavit filed by the Board. On the cover page of the said answer sheet “expelled’ has been marked. The Court is surprised to find that when there was noting “expelled’ on the cover page of the answer sheet, how his answer sheet was evaluated by the examiner.

The Secretary of the Board appearing in person has submitted that not only the Centre Superintendent but the examiner too connived with the petitioner’s conduct of adopting unfair means. Such bald allegations based on no material, cannot be accepted so easily. I have perused the marks sheet of the petitioner and I have found that the marks scored by the petitioner in other subjects, are satisfactory and in such circumstance cancellation of



his result based on virtually no material without complying with the principles of natural justice, having serious adverse consequences cannot be approved. The action of the Board is palpably arbitrary, illegal and in violation of principles of natural justice.

In that view of the matter, this application is allowed. The Bihar School Examination Board is directed to issue matriculation certificate in favour of the petitioner of having passed matriculation examination held in the year 2003. The certificate must be issued within four weeks from today.

(Chakradhari Sharan Singh, J)

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