

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7623 of 2016

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1. Vivek Kumar, Son of Sri Arun Kumar, resident of Mohalla -
B.D. Colony, Ara Nawada, P.S. Ara Nawada, District - Bhojpur
..... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Human
Resources Department, Govt. of Bihar, Patna
2. Bihar School Examination Board, Patna through the Secretary,
Bihar School Examination Board, Patna
3. The Chairman, Bihar School Examination Board, Patna
4. The Secretary, Bihar School Examination Board, Patna
5. Principal, Hitnarayan Chhatriya + 2 School, Ara, Bhojpur
..... Respondents

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Appearance :

For the Petitioner : Mr. Ravindra kumar
For the State : Mr. Nadeem Seraj, GP 5
For BSEB, Patna : Mr. Gyan Shankar

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

JUDGMENT AND ORDER

ORAL

Date: 08-04-2017

Heard learned Counsel for the parties concerned.

2. A mistake committed by a young boy of less than 15 years of age has cost him heavily. He had appeared at annual matriculation examination held by the Bihar School Examination Board, Patna, in the year 2011. He was declared passed in the result published in May, 2012. It is evident from the mark sheet, which has been brought on record, that his date of birth is 15.11.1997. Evidently thus, on the date of publication of result, he was less than 15 years. From the



mark sheet, it seems that he had scored 25 marks in the subject 'Mathematics', for which pass marks is 30, out of 100. There is provision of giving 05 (five) grace marks by the Board if a student's marks is less than the pass marks. 05 (five) marks was allowed to the petitioner and accordingly he was declared pass in the matriculation examination. After having passed matriculation examination, he pursued his Intermediate course and has passed Intermediate Examination also in the year 2014 with First Division. He is pursuing his under-graduate course at present.

3. It appears that after result of matriculation examination was published, he had applied for scrutiny of marks awarded in the subject 'Mathematics'. On scrutiny, the petitioner's score in the said subject was found to be 24.

4. The present writ application has been filed by the petitioner seeking a direction to the Bihar School Examination Board, Patna, to issue original matriculation certificate, which he had passed in the year 2012, as has been indicated above.

5. The stand of the Bihar School Examination Board is that since the petitioner had applied for scrutiny and upon scrutiny, his score has been found to be 24 in the subject 'Mathematics', he has been declared, subsequently, by the Board to have failed. This is in the background that not



more than 05 (five) grace marks could be allowed under the regulation of the Board.

6. Learned Counsel appearing on behalf of the Board has drawn my attention to the communiqué, issued by the Board, inviting application for scrutiny, to submit that it was clearly mentioned in the said communiqué that upon scrutiny, the marks could increase or decrease or might remain the same. He has accordingly submitted that once the petitioner took a chance by filing an application for scrutiny, and upon scrutiny, his score has been found to be 24, he cannot claim that his result should be published on the basis of the mark sheet which was initially issued to him by the Board, which is there as Annexure-3 to the application.

7. To this Court, it appears that the petitioner, while applying for scrutiny, at the age of less than 15 years, might have slightly missed to evaluate his own performance, even if the Board's stand that his marks was subsequently found to be 24, is to be accepted. The decision of the Board will make a lot of difference in the career of the petitioner, if he is held to have failed in the matriculation examination for an act of indiscretion.

8. Considering the special facts and circumstances of the present case, I direct the Bihar School Examination Board, Patna, to treat the petitioner to have



passed on the basis of the mark sheet supplied to him, which has been brought on record by way of Annexure-3, which is not in dispute and treat him as if he had not applied for scrutiny.

9. The Board is accordingly directed to issue original matriculation certificate in favour of the petitioner within a period of four weeks from today.

10. This application is allowed.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	17.04.2017
Transmission Date	N.A.

