

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16621 of 2017

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Nysa Communications (P) Ltd. (A Company incorporated under the provisions of Companies Act, 1956) having its Regd. Office at F-18, Preet Vihar, Vikas Marg, Delhi- 110092 Corporate Office: A-100, Sector-65, NOIDA-201301, through its Assistant Project Manager, Sh. Ravi Sehrawat, Residing at Flat No. 207, Radhe Krishna Apartment, Bhattacharya Road, Patna, Bihar.

.... Petitioner

Versus

1. Bihar School Examination Board, through its Chairman, Sinha Library Road, Patna- 800017.
2. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna- 800017.
3. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna- 800017.
4. Deputy Director (IT), Bihar School Examination Board, Sinha Library Road, Patna- 800017.
5. The Controller of Examinations (Secondary Wing), Bihar School Examination Board, Sinha Library Road, Patna- 800017.
6. The Joint Secretary-cum-Controller of Examinations (Senior Secondary), Bihar School Examination Board, Sinha Library Road, Patna- 800017.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. P.K. Shahi, Sr. Advocate Mr. Tanuj Khurana, Advocate Mr. Ashish Batra, Advocate
For the BSEB	:	Mr. Satyavir Bharti, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 05-12-2017

The present writ petition has been filed for quashing the order/letter dated 13.10.2017 passed by the Respondent No. 2 by which the Respondent No. 2 Board has purportedly debarred the petitioner from taking part in the tenders published by the Respondent No. 2 Board for the next two years from the date of issuing of the order/letter; and for connected reliefs.

2. Learned Senior Counsel Mr. P.K. Shahi appearing on behalf of the petitioner submits that the impugned order is wholly



arbitrary and illegal as the same has been passed in violation of the principles of natural justice. Even according to para 10 of the impugned order, a show cause notice dated 12.10.2017 (Annexure-8) was issued granting seven days' time to file show cause reply, but the impugned order has been passed in hot haste, the very next day on 13.10.2017 (Annexure-1), and hence the petitioner has been prevented from filing an effective show cause. Moreover, it is submitted that the petitioner had furnished a show cause reply dated 06.06.2017 pursuant to an earlier show cause notice dated 30.05.2017 but the same has not been considered while passing the impugned order.

3. Mr. Satyavir Bharti, learned counsel appearing on behalf of the respondents submits that reference to the show cause notice dated 12.10.2017 was an inadvertent error as the contents thereof would show that the same in fact was not in the nature of a show cause notice, rather the same merely required the petitioner to hand over certain records to the respondents. He however, fairly submits that there is nothing in the impugned order to show that the petitioner's show cause reply dated 06.06.2017 has been discussed therein.

4. Having heard learned counsel for the parties and on consideration of the materials on record, this Court is of the view that the impugned order has been passed without due application of mind and without having regard to the show cause reply dated 06.06.2017 filed by the petitioner pursuant to show cause notice dated 30.05.2017. In such circumstances, it must be held that the impugned order is a non-speaking one as no reasons have been assigned for not accepting the stand of the petitioner which has not even been considered or discussed in the impugned order.

5. In the above circumstances, the impugned order dated 13.10.2017 (Annexure-1) is hereby set aside with a direction to the



Secretary, Bihar School Examination Board, Sinha Library Road, Patna, 800 017 (Respondent No. 3) to pass fresh orders after considering the show cause reply of the petitioner in accordance with law and after grant of an opportunity of being heard to the petitioner.

6. The writ petition stands allowed.

(Vikash Jain, J)

Chandran/BT

FR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	07.12.2017
Transmission Date	N.A.

