

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16305 of 2017

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1. Sri Ram Chandra Senior Secondary School, Raja Pakar, Vaishali at Hajipur through its Secretary, Rajiv Kumar son of Sri Ram Lalan Rai resident of village +P.S. - Raja Pakar, District - Vaishali at Hazipur.
 2. Sri Kapildeo Rai Senior Secondary School Sumariganj, Chehara Kala, District Vaishali at Hazipur through its Secretary, Akhilesh Kumar son of Sri Suresh Rai resident of village - Salempur Dumaria, P.S. - Goraul, District - Vaishali at Hazipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Bihar School Examination Board (Senior Secondary), Budh Marg, Patna through its Chairman.
3. The Chairman, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna.
4. The Secretary, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna.
5. The District Education Officer, Vaishali at Hazipur.
6. The Deputy Development Commissioner-cum-Chairman (Inspecting Team), Vaishali at Hazipur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Kumar Singh, Adv. Mr. Ashok Kumar Singh, Adv. Mr. Jai Praakash Tiwari, Adv.
For the State	:	Mr. Jitendra kumar roy AC to SC 13
For the BSEB	:	Mr. Hirendu Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 19-12-2017

It transpires from records that to allow students of such plus-two schools, affiliations of which have been cancelled by the Bihar School Examination Board, to appear for the plus-two examination, a decision has been taken to tag them with Government schools for the purpose of filling up of examination forms.



2. This writ application has been filed on behalf of two institutions, namely, Sri Ram Chandra Senior Secondary School, Raja Pakar, Vaishali at Hajipur and Sri Kapildeo Rai Senior Secondary School (+2), Sumerganj, Chekara Kala, Distt. Vaishali.

3. This is not in dispute that the petitioners had earlier approached this Court by filing CWJC No. 6205 of 2017 against the decision of cancellation of the affiliation of these two schools. In view of decision of this Court in case of *Uchatar Madhyamik School (+2) Vs. The State of Bihar* and Ors. and other analogous cases, this Court had allowed the writ application, vide order dated 01.09.2017 and, accordingly, the order, by which the affiliations were cancelled, were set aside.

4. It has been brought to my notice that subsequently by an order, dated 18.10.2017, passed by a Division Bench of this Court in LPA No. 1431 of 2017 and other analogous cases, the decision in case of *Uchatar Madhyamik School (+2) Vs. The State of Bihar* (Supra) has been ordered to be kept in abeyance. Apparently, the very basis for allowing the petitioners' writ application being CWJC No. 6205 of 2017 is, thus, in abeyance.

5. The petitioners have a grievance against the decision of the respondents to tag the students of school with other schools for the purpose of appearing for 10+2 examination which is going to be



held in 2018.

6. The affiliations of these schools were cancelled on 12.04.2017 and prior to 12.04.2017, these schools were having affiliation of the Bihar School Examination Board. It is accordingly, the case of the petitioners that the students, who have been admitted in the schools in the year 2016, should have been allowed to complete their studies and fill up their examinations forms from the school in view of the third proviso to Section 10-C of the Bihar School Examination Board Act, 1952. Learned counsel for the petitioner has placed reliance on the observation made in the case of *Ucchtar Madhyamik School* (Supra) at Paragraph 56.

7. The third proviso to Section 10-C of the Act reads thus:

“Provided also that before withdrawing affiliation the Board shall give to the school or the institutions concerned a reasonable opportunity of being heard, and the students admitted into such schools or institutions shall be allowed to complete their academic sessions and appear at the next examination conducted by the Board.”

(Emphasis is added)

8. The third proviso requires two things to be done by the Board while withdrawing affiliation, namely, (I) a reasonable



opportunity of being heard to be given to the school or the institution concerned and (II) the students admitted in such schools, to be allowed to complete their academic session and appear in the next examination conducted by the Board.

9. The third proviso apparently contemplates that the students should be allowed to appear in the next examination conducted by the Board. It does not mean that such students must appear through the school, the affiliation of which the Board has decided to cancel. The Board is to ensure that the students are allowed to appear at the next examination.

10. By the impugned order, the students of these students are being allowed to appear in the next examination. Thus, the impugned order does not require any interference.

11. This application stands disposed of.

(Chakradhari Sharan Singh, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21-12-2017
Transmission Date	N/A

