

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16411 of 2017

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Kunj Bihari Sharma, S/o Surendra Prasad Pan, Resident of Village - Ramtola,
P.S. - Hathidah, District - Patna through his father (Natural Guardian)
Surendra Prasad Pan, S/o Jugeshwar Tanti, Resident of Village - Ramtola, P.S.
- Hathidah, District - Patna.

... .. Petitioner

Versus

1. The Bihar School Examination Board, Patna through its Chairman, Bihar School Examination Board, Patna at Patna.
2. The Secretary, Bihar School Examination Board, Patna at Patna.
3. The Examination Controller, Bihar School Examination Board, Patna at Patna.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Binod Kumar
For the BSEB : Mr. Manish Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 25-01-2018 Pursuant to this Court's order, dated 18.01.2018, original answer sheets of the petitioner have been produced of the subjects, English, Physics, Chemistry, Mathematics, NRB and MAE.

The petitioner is also present, who had the occasion to see the said answer sheets.

A supplementary counter affidavit has been filed on behalf of the Bihar School Examination Board.

The petitioner has a grievance that his answer sheets of Intermediate Examination (Science), 2017, conducted by the Bihar School Examination Board, Patna, had not been examined



properly and he has been awarded marks much below his expectations. He expressed his confidence to the extent that he agreed to deposit an amount of Rs. 40,000/-, subject to forfeiture, if the petitioner's claim was not found to be genuine on production of his original answer sheets. It was in that background that the Bihar School Examination Board was directed to produce the petitioner's answer sheets, which have been made available.

This is to be noticed that after publication of his result, the petitioner had applied for scrutiny of his answer sheets. The outcome of scrutiny was not communicated by the Bihar School Examination Board to him, which compelled him to approach this Court by filing the present writ application.

A counter affidavit was earlier filed on behalf of the Bihar School Examination Board, stating therein that pursuant to petitioner's application for scrutiny, the scrutiny of his answer books of English, Physics, Chemistry, Mathematics, NRB and MAE were done by the concerned experts. On the basis of the opinion of the experts, the petitioner's marks, in the subject Chemistry, has been increased from 19 to 25. There is specific statement in paragraph 7 of the counter affidavit that in the subjects, English, Physics, Mathematics and MAE, no change



was found to be required by the experts.

In the supplementary counter affidavit, it has been stated that in course of locating the answer books of the petitioner, for the purpose of their production before this Court, certain shortcomings in the evaluation of the petitioner's English answer books came to be noticed, particularly, in relation to question no. 16, carrying three marks. The evaluation of the answer of the said question was done. Thereafter, the said paper was referred to the subject expert, who, after going through the answer book, gave finding for addition of three marks against question no. 16. It is further stated that by way of abundant precaution, the Bihar School Examination Board Officials have verified other answer sheets of the petitioner, which have been found to be in order. On account of subsequent development, i.e. with addition of three marks, in English paper, the petitioner's aggregate has risen to 296 from 293 and under the Regulations, he has, now, been placed under 1st Division after allowing him four grace marks. Earlier, the petitioner was placed under 2nd Division.

What is apparent from the stand of the Bihar School Examination Board itself that evaluation was not properly done by the examiner of the petitioner's Chemistry paper and only



when the petitioner approached this Court and process of scrutiny was expedited, it was found that his answer sheets were not properly evaluated. The petitioner's marks in Chemistry paper has been increased by six. Apparently, the examiner was casual in his approach while evaluating the petitioner's answer sheets of the Chemistry paper. So far as English paper is concerned, the answer to question no. 16 was not evaluated by the examiner. His answer sheet was thereafter placed for scrutiny. The person, who did the scrutiny work also failed to notice that his answer to question no. 16 was not evaluated. The Evaluator and the Scrutinizer, both, failed to notice question no. 16, which was duly answered by the petitioner.

This goes to suggest that the persons who had been given the duty to evaluate and to scrutinize the answer sheets have acted in casual and careless manner and have failed to perform their duty as Evaluator and Scrutinizer. The manner in which they have evaluated the petitioner's answer sheets and the manner in which the petitioner's answer sheets has been scrutinized speaks volumes against the persons involved in discharge of duties which has lot of significance and serious consequences. Unless strict action, having deterrent effect, is taken against such persons, the situation is not likely to improve



in the present system of evaluation and scrutiny.

In course of hearing of this case, learned Counsel appearing on behalf of the petitioner, on instructions from the petitioner, has submitted that against some of the questions, the marks, which have been given, are much less than what the said answers deserve. This Court, in a proceeding, under Article 226 of the Constitution of India, cannot go into that aspect of the matter and sit over the decision of the Evaluator as an appellate authority.

In the facts and circumstances of the case, I dispose of the writ application with an observation that the Bihar School Examination Board and the authorities under whom such negligent and careless Evaluators are working, must take appropriate disciplinary action against them in a manner that such action has deterrent effect and a lesson for others.

Let the amount deposited by the petitioner of Rs. 40,000/- be returned to him.

In the background of the facts, as narrated above, I consider it appropriate to impose a cost on the Bihar School Examination Board, which, in my opinion, should be Rs. 10,000/-. It is ordered accordingly .

Let the said cost of Rs. 10,000/- be paid to the petitioner



within a period of two months from the date of receipt/production of a copy of this order.

The Bihar School Examination Board shall have the liberty to recover the said amount from the erring person(s).

Let the original answer sheets be returned to learned Counsel for the Bihar School Examination Board.

This application accordingly stands disposed of with cost.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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