

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14487 of 2018

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Sindhu Priya (Minor) Guardian and Father Sri Bidya Nand Prasad Yadav,
Resident of Village-Ukani Chamanpur P.S. Sheohar District Sheohar and
Present Address Mohalla Kailashpuri Ward no. 09 P.S. Dumra, District
Sitamarhi.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board Through its Secretary, Budh Marg, Patna.
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary Bihar School Examination Board, Patna.
4. The Joint Secretary-Cum-Examination Controller (S.S.) Bihar School Examination Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Mayanand Jha, Advocate Mr. Uday Kumar, Advocate
For the Respondent/s	:	Mr. Lalit Kishore, Advocate General
For the BSEB	:	Mr. Sunil Kr. Mandal, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 29-08-2018 The petitioner has scored 14 out of 70 marks in Chemistry paper of Intermediate Examination-2018, held by the Bihar School Examination Board. Pass marks for the said paper is 21. She has been declared 'fail' in the said subject.

This application has been filed seeking direction to the respondent-Bihar School Examination Board to award grace marks in terms of the Regulation of the Board.

The Chemistry subject has two parts, namely, theory and practical. In the practical part, the petitioner has scored 24 out of 30 marks. Her marks in theory and practical parts taken



together in the said subject comes to 38. It is the case of the petitioner that 100 being the total marks for the Chemistry paper, she is entitled for 8 per cent of 100 as grace marks under the Regulation. The relevant Regulations have been brought on record by way of Annexure-P/3, Regulation 1 which is relevant, reads thus:-

“1- A candidate failing in one subject only by not more than 8% marks or in two subjects by not more than 4% marks in each shall be given the marks he/she is short of and result shall be declared accordingly.

(i) This regulation will not be applicable in case of candidates appearing at the improvement, compartment or qualifying examination.

(ii) In a subject or group of subjects where separate passing is necessary in part or it, the shortage shall be calculated on the basis of the full marks in the part. Failure in different parts of a subject shall be deemed to be failure in one subject only.”

It is manifest from Sub Regulation (ii) of Regulation 1 that in a subject or group of subjects, separate passing is necessary in each part of it and the shortage is to be calculated



on the basis of the full marks in that part. Applying the said provision in the petitioner's case, her case relates to theory part of Chemistry paper which is of 70 marks. A candidate can be given only 8 per cent of 70 i.e. 5.60 marks. The petitioner's marks in Chemistry (theory) paper is short by 7 marks.

In my view, the relief which is being sought in the present writ application, cannot be granted. It is misconceived to plead that the petitioner is entitled for 8 per cent of the total marks in Chemistry paper i.e. theory and practical taken together.

I, therefore, do not find any merit in this application, which is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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