

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.772 of 2015

IN

Civil Writ Jurisdiction Case No. 21540 of 2013

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Manoj Paswan. Son of Kailash Paswan. Resident of village - Parbatta, P.S.-
Parbatta, District - Bhagalpur.

.... Appellant/s

Versus

1. Laxmi Kant Mandal. Son of Horil Mandal. Resident of village + P.O.- Abhiya Bazar, P.S.- Gopalpur, District - Bhagalpur.
2. Anita Kumari. Wife of Praveen Kumar. Resident of village + P.O.- Rangra, P.S.- Rangra, District - Bhagalpur.
3. The State of Bihar.
4. The Principal Secretary Department of Education, Government of Bihar, Patna.
5. The Director, Primary Education, Department of Education, Government of Bihar, Patna.
6. The District Programme Officer, Bhagalpur.
7. The District Education Officer, Bhagalpur.
8. Ram Vijay Kumar. Son of Bhedeo Mandal. Resident of village - Meghal Tola, P.O.+ P.S.- Ismailpur, District - Bhagalpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pramod Mishra

For the Respondent/s : Mr. Nivedita Nirvikar, GA 10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-03-2018

Seeking exception to an order passed by the learned Writ

Court dated 28.01.2015 in CWJC No. 21540 of 2013 this appeal has

been filed under Clause 10 of the Letters Patent.



Placing reliance on a judgment rendered by a Division Bench of this Court in the case of *Chhotelal Choudhary vs. The State of Bihar & Others [2014 (3) PLJR 606]* it has been held by the learned Writ Court that the weightage of 20% granted to the present appellant who was respondent no. 6 in the writ petition cannot be upheld. The benefit to be granted to him is addition of 20 marks in final result and not 20%.

Even though the addition @ 20% claimed by the appellant on various grounds, today before us a judgment rendered by a Co-ordinate Bench of this Court dated 29.01.2018 in LPA No. 138 of 2014 has been produced, wherein the learned Division Bench after considering the law laid down in the case of *Chhotelal Choudhary* (supra) has held and it has been clarified that 20 marks is required to be added to the total marks obtained by the candidate and thereafter the percentage has to be calculated. It has been held that no such person can gain advantage of 20% over the calculated percentage of marks which would have a catastrophic effect. In fact, the principle has been crystalized by the learned Division Bench in the following manner:-

“In view of the same, the impugned order dated 17.07.2013 passed in CWJC No. 20314 of 2011 against which the present LPA has been preferred, is quashed. The appeal is allowed. It is clarified that 20 marks is required to be added to the total marks a candidate has earned in the Intermediate Examination and thereafter the



percentage has to be calculated and the merit list prepared. No person can gain advantage of 20% over the calculated percentage of marks which in terms of the Division Bench will have a catastrophic effect on the merit position.

The appeal stands allowed in terms of the above.”

We find that as the issue has been decided by the Co-ordinate Bench in the manner as indicated hereinabove which is in conformity with the impugned order passed by the learned Writ Court the appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mr1./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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