

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1113 of 2017

In
Civil Writ Jurisdiction Case No.7623 of 2016

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1. The Bihar School Examination Board, Patna through the Secretary, Bihar School Examination Board, Patna.
 2. The Chairman, Bihar School Examination Board, Patna.
 3. The Secretary, Bihar School Examination Board, Patna.

... .. Appellant/s

Versus

1. Vivek Kumar Son of Sri Arun Kumar resident of Mohalla - B.D. Colony, Ara Nawada, P.S. - Ara Nawada, District - Bhojpur.
2. The State of Bihar through Principal Secretary Human Resources Department, Government of Bihar, Patna.
3. The Principal, Hit Narayan Chhetriya + 2 School, Ara, Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Lalit Kishore, Sr. Advocate
For the Respondent/s : Mr. Rabindra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 16-05-2018

Heard counsel for the Bihar School Examination

Board and counsel for the private respondent.

We are not impressed by the line of reasoning given by the learned Single Judge in his order dated 08.04.2017 that the private respondent was a minor when he applied for retotaling, therefore, he cannot be held responsible.

The fact is that application for scrutiny was filed which is not being contested or denied. If after scrutiny a



different result was thrown up, the result cannot be wished away and the result after scrutiny shall be the result of the candidate concerned.

The factual position is that the private respondent had obtained only 25 marks in Mathematics in Matriculation examination. Passing marks is 30. Since, there is a provision for grant of 5 grace marks he was granted grace marks and shown to have passed with the grace marks. However, not being satisfied with the result he asked for scrutiny which resulted in only 24 marks instead of 25 marks, meaning thereby, that even if 5 grace marks is added to 24 marks it does not add up to the passing marks of 30 in Mathematics.

Since, it was mandatory to pass in the Mathematics paper, the net result of the private respondent was that he was shown to have failed in Matriculation.

The result related to the year 2012. He waits for almost four years and then files a writ application for grant of certificate and marksheet. This Court refuses to accept the line of argument urged on behalf of the private respondent that he had no knowledge as to the outcome of the application for scrutiny or the final result position.



Obviously, the private respondent did not want to be confronted with the reality which was staring his face that he had failed, therefore, a cock and bull story was made out in the writ application for a direction for grant of certificate and marksheet for passing the Matriculation examination.

Knowledge or no knowledge will not alter the final result position of any candidate. The Examination Board cannot be given a direction to provide a different result than what the records reflect.

Though in cases of failed candidates the Examination Board does not provide any marksheet or certificate but because of the nature of the dispute which has travelled to the Court, the Examination Board is directed to issue a marksheet of the private respondent based on the records which reflect his position in the said Matriculation Examination.

The private respondent now cannot bargain between one result or the other especially when the application for such scrutiny clearly lays down that the outcome of the scrutiny exercise will be the final result of a candidate.



The appeal is allowed. Impugned order dated
08.04.2017 is set aside with the direction as above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/Pragya

AFR/NAFR	NAFR
CAV DATE	NA
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