

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1115 of 2016

In

Civil Writ Jurisdiction Case No. 18932 of 2015

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Smit Priya. Daughter of Sri Surendra Prasad Singh, wife of Sri Atul Kumar Singh,
resident of Village Rajendra Nagar, Police
Station Nawada (Ara) District Bhojpur

.... Petitioner/ Appellant/s

Versus

1. The Secretary, Central Board of Secondary Education, Siksha Kendra of
Community Centre, Preet Vihar, Delhi - 110092
2. Regional Officer, CBSE, Regional Office, Ambika Complex near Brahmasthan,
Patna
3. Principal, DAV Public School Arrah-Patna Road, Dhanupura, PS Arrah
(T)/Nawada) District Bhojpur Pin No. 802301 Affiliation No. 330035

.... Respondents /Respondent/s

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Appearance :

For the Appellant/s : Mr. Smit Priya (in person)
For the Central Board of
Secondary Education : Mr. Vinay Krishna Tripathy, Advocate
For D A V School : Mr. Anil Kumar Singh
Mr.Surendra Kumar

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-04-2018

The appellant appears in person.

Mr. Vinay Krishna Tripathy, learned counsel appears
representing the Central Board of Secondary Education.

Seeking exception to an order passed by the learned Writ
Court on 29.04.2016 in CWJC No. 18932 of 2015 this appeal has
been filed under Clause 10 of the Letters Patent.

The petitioner is the mother and guardian of Master
Apoorv Singh who had appeared in the annual examination conducted



by the Central Board of Secondary Education (hereinafter referred to as the CBSE) in March, 2015. He was a student of D.A.V. School, Dhanpura, Ara. When the result was declared on 28.05.2015 of the 10th Class examination, it seems that the candidate was not satisfied with the marks awarded in some of the subjects and had certain reservation with regard to the evaluation of the answer-book. It seems that the candidate sought for re-evaluation of the answer-books and various allegation were made in the writ petition. The Writ Court took cognizance of the matter and on 29.04.2016 disposed of the writ petition in the following manner:-

“Learned counsel for CBSE informs the Court that on verification from the regional office, it emerges that the candidate Apoorv Singh has 9.8 CGPA which roughly translates into 98% marks.

If that be so, then obviously the candidate is sitting on the upper ladder of the marking and keeping in mind the range of marks which goes with Grade A1, obviously there does not seem to be any discrepancy between what had been uploaded by the school on to the website of C.B.S.E. and the final result of the Board.

It is clarified that the writ application was entertained by the Court as a random verification of the apprehension which was expressed on behalf of the guardian of the student when there is no mandate as such in terms of the regulation of the C.B.S.E.

If this be so, the matter should rest now. Writ application stands disposed of.”

While hearing the matter at length, this Court from time to time called for the answer-books and various other materials, issued



notice to the Secretary, CBSE, and on 14.09.2017 found that the respondents have filed affidavit and produced answer-books of the student in four subjects, Mathematics, Science, English and Foundation of I.T. in a sealed cover. The Board was also directed to produce in a sealed cover the evaluation of the marks obtained by candidate in question. After considering all these materials notice was issued to the school in question on 13.10.2017 and finding that after pleading were completed on 12.12.2017 this Court passed the following order :-

“After going through the various aspects of the matter, we find that with regard to the student in question, Apoorva Singh, answer-sheets of the student for the examination in question have been tampered with. We, therefore, propose to cause an enquiry by an officer posted in the Headquarter of Central Board of Secondary Education at New Delhi.

We direct the Chairman of the Central Board of Secondary Education, New Delhi to appoint an officer working under him and to cause an enquiry with regard to examination in question conducted, vis-à-vis the student Apoorva Singh, examinee, all his answer-sheets for both the internal and external examination, the entire records pertaining to the marks allotted to him and submit a report to this Court.

For the purpose of conducting enquiry, the officer appointed shall be free to visit the institute, see the documents examined by the teachers and other officials of the institute, give opportunity of hearing to the petitioner and her son, record the statement of all concerned and thereafter submit a report.

Let the report be submitted within a period of two months from today.



The document submitted by the Central Board of Education through the counsel Shri Vinay Krishna Tripathy in the sealed cover by handed over to learned counsel in the same sealed cover, which shall be retained by him and handed over to the enquiry officer for conducting the enquiry into the matter.

List the matter along with the enquiry report after two months.”

In pursuance to the said order, the Chairman, CBSE has caused an enquiry into the matter and the enquiry officer one Shri Tarun Kumar, Assistant Secretary, has produced a detailed enquiry report before us.

We have gone through the proceedings of the enquiry and we find that the enquiry was conducted in the matter on 31st January, 2018 and 21st February, 2018 in the regional office of the CBSE, Patna. In the enquiry conducted statement of 32 witnesses were examined including the statement of the petitioner-appellant herein, the mother of the candidate in question. Apart from examining 32 witnesses the enquiry officer also took note of 17 documents and the entire proceedings have been placed on record before us. Thereafter the evidence has been analyzed, report of the expert obtained and evaluated and the conclusion arrived at by the enquiry officer after considering the report of the subject-expert reads as under:-

“4. Conclusion

(i) Allegation of tampering (or manipulation) against functionaries



of DAV School/staff or any CBSE official in the preparing the result of Mr Apoorv Singh could not be proved.

(ii) Committee found some unchecked part in question 22 (c) in SA I science copy. Student may be awarded marks based on his actual performance. Committee recommends that Mr. Apoorv Singh may be considered for revision in marks in SA 1 and SA 2 as recommended by subject experts (Para 3(iii) & (iv) above).”

Before recording the aforesaid conclusion, in paragraph-3 the enquiry officer has made the following observations:-

“3. Report of Subject Expert

- (i) In February, 2016, CBSE RO Patna had got the Science SA 2 Answer book examined by the subject expert. Expert has opined to increase the marks from 74 to 74.5 (Page-100). However the marks were not increased since policy of CBSE did not allow revaluation (Page 45-47 State of Sh Arvind).
- (ii) During enquiry it emerged that in Science SA 1 one part 22(c) of copy is unchecked. (No marks awarded against that part). The same has also been accepted by the DAV School (Page 6). However the issue has never been examined before and it was required to know what would be the actual score of Mr Apoorv Singh in science and other subjects.
- (iii) In order to examine the possibility of bias/manipulation of marks at the level of copy-checker and get un-checked part of copy assessed, subject experts were called on 1.2.2018 and CBSE office Patna for opinion. The assessment was done by the subject experts in free and fair, unbiased manner before the Inquiry Committee and subject experts did the evaluation based on question paper and marking scheme supplied to them through RO Patna. It is to mention that the experts also checked few copies of other students



as well but no increase in their marks could be there. While analyzing copies of SA1 (school based examination) it was ensured that level of checking the same as was in other copies of other students of same subject from that school. On basis of report of subject experts (Page 27-44) committee found that marks of candidate Apoorv Singh can be increased in SA 1 and SA 2 as under:-

Sl. No.	Subject	Paper	Marks Awarded in 2015	Revised (Proposed) Marks in 2018
1	Science	SA1	82	84.5
2	Science	SA2	74	74.5
3	English	SA2	53	54
4	Math	SA1	88	88
5	Math	SA2	56	57.5
6	F.I.T.	SA2	78	79

(iv) Although the proposed increase in marks appears near insignificant, yet after rounding off, up-scaling of grades in 2 subjects as per formula, actual result of candidate may improve (Revised draft Calculation Sheet is attached at page 52).”

Thereafter, we adjourned the matter from time to time and granted opportunity to the appellant herein to give her say in the matter. The appellant submits that she is satisfied with the upgradation of mark in the subject of Science but she speaks about manipulation and errors in subject of Mathematics and challenges the same.

We have considered her submission and we are of the



considered view that in exercise of our extraordinary jurisdiction under Article 226 of the Constitution we have caused an enquiry into the matter by an independent authority and we are satisfied with the enquiry conducted and now we see no reason to make further indulgence into the matter. We accept the conclusion given by the enquiry officer and we direct that accepting the report of the enquiry officer and the proposal made the revised result of the candidate be declared, the result of the candidate be amended, the amended result be notified and amended mark-sheet and other documents be supplied to the candidate in accordance with rule and the enquiry report in original be returned to the CBSE through Shri Vinay Krishna Tripathy representing the Board in a sealed cover.

With the aforesaid finding and observations we dispose of the appeal.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

mr1./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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