

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15620 of 2014

=====

Sudhir Kumar Sinha Son of late Chakradhar Prasad Resident of Village - Chandasi,
P.O. & P.S. - Noorsarai, District - Nalanda at present residing at Ajanta Colony,
Kesari Nagar, P.S. - Pataliputra, District - Patna.

.... Petitioner/s

Versus

1. The Bihar School Examination Board, Patna through its Secretary.
2. The Secretary, Bihar School Examination Board, Patna.
3. The Chairman, Bihar School Examination Board, Patna.
4. The Deputy Secretary, Establishment, Bihar School Examination Board, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Prashant Sinha, Advocate
For the B S E B : Mr Lalit Kishore, Sr Advocate with
Mr Gyan Shankar, Advocate

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 10-07-2018

Heard learned counsel for the petitioner and the
respondent-State.

2 It is the admitted case of the parties that even after
remand of petitioner's case under order dated 19.09.2012 passed on
the petitioner's earlier writ petition bearing *CWJC No 3908 of 2004*,
the petitioner has not been shown the entries made in the register on
the basis of which the authorities have concluded his responsibility for
handing over the files to a daily wages employee, namely, Mr Abdul
Mannan.

3 Whether petitioner has not seen the register or whether



the authorities have provided the same to him is an issue which can be reexamined by the Chairman of the Bihar School Examination Board (respondent No 3) to ascertain whether petitioner has committed a lapse.

4 Petitioner's counsel submits that during pendency of the instant writ petition, the petitioner has also been acquitted in the criminal proceedings arising out of GR Case No 4066 of 200 vide judgment and order dated 16.12.2017 passed by the learned Additional Chief Judicial Magistrate X, Patna, arising out of the same allegation.

5 It would be open to the petitioner to persuade the Chairman during the course of consideration of the order of punishment, with reference to the acquittal in the criminal proceedings.

6 It is made clear that the petitioner should get an opportunity to examine the register, which is being relied upon to conclude the petitioner's guilt. The Chairman may also take into consideration the fact that the other co-accused person was not charge sheeted and no finding of guilt has been recorded against him in the departmental proceedings. Whether the petitioner can claim any benefit is an issue which is left to the Chairman to take a decision. Petitioner may be allowed adequate opportunity and fairness in this



matter.

7 The petitioner may approach respondent No 3 by making his application for review/reconsideration in terms of this order placing reliance on all the materials that he proposes along with findings of the criminal case (GR Case No 4066 of 2000) and in light of the law laid down in the cases of *Capt M Paul Anthony –Versus Bharat Gold Mines Limited & Another, (1999) 3 Supreme Court Cases 679* and *G M Tank –Versus- State of Gujarat & Others (2006) 5 Supreme Court Cases 446*, within a period of four weeks from today.

8 In the event, such an application is filed, respondent No 3 shall consider and dispose of the same by reasoned and speaking order within a period of three months thereafter.

9 Writ petition is disposed of.

10 The entitlement of the petitioner will abide by the final decision taken by the Chairman.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.07.2018
Transmission Date	NA

