

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.811 of 2017

In

Civil Writ Jurisdiction Case No.3415 of 2016

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1. The Union of India through the Ministry of Science & Technology, Department of Science & Technology, Govt. of India, New Delhi.
 2. The Secretary, Department of Science & Technology, Govt. of India, New Delhi.

... .. Appellant/s

Versus

1. Indrajeet Sachin Son of Sri Neelambar Singh Resident of Near Bhagat Singh Chowk, Munger, P.S. Kotwali, District - Munger.
2. The Bihar School Examination Board (Senior Secondary) through its Chairman.
3. The Chairman, Bihar School Examination Board (Senior Secondary), Patna.
4. The Secretary, Bihar School Examination Board (Senior Secondary), Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S. D. Sanjay Addl. S. G. Mr. Ravinder Kumar Sharma CGC
For the Respondent/s	:	Mr. Arvind Kumar Sharma Advocate Mr. Chetan Kumar Advocate
For the BSEB	:	Mr. Sunil Kumar Mandal Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 27-04-2018

Heard learned Additional Solicitor General, representing the Union of India; counsel for the Bihar School Examination Board; as well as counsel appearing on behalf of the private-respondent.



The order under challenge in appeal is dated 17.01.2017, passed by the Learned Single Judge, where a direction and mandamus has been issued upon the Union of India to pay to the private-respondent scholarship within a period of four weeks under a scheme of scholarship, issued by the Ministry of Science and Technology, Department of Science and Technology, Government of India. The scholarship was named as “Inspire Scholarship”.

The scheme of the “Inspire Scholarship” has been annexed as Annexure – 1 to the Letters Patent Appeal. A reading of the same would indicate that for promoting merit and encouraging quality students for higher education after Class-XII examination, 10,000 (ten thousand) scholarships were envisaged to be granted across the country for top one per cent of the toppers of the regional boards. The scholarship under dispute relates to the year 2014. The advertisement very clearly lays down the eligibility as well as the cut-off date for filling online applications alone. The server was to start functioning between 1st of August, 2014 from 10 hours and would close by 31 of October, 2014 by 17 hours. No other mode of application for scholarship was entertainable.

Before proceeding with the matter further, the Court would not hesitate to observe that if only proper assistance by way of affidavit was filed on behalf of the Union of India the occasion



for an adverse order from the Learned Single Judge would not have arisen nor a Letters Patent Appeal would have been necessiated.

The broad factual aspects are that the private-respondent who was the writ petitioner moved the writ court for a direction for payment of scholarship to him, which he felt was wrongly denied. The admitted fact, however, is that when the window of application for grant of “Inspire Scholarship” was open, the private-respondent did not have the requisite marks, which brought him under the ambit of one per cent of the toppers of the Board. The private-respondent along with the large number of other students not being satisfied with the evaluation and the result, applied for re-evaluation and it is only after re-evaluation when the new results were announced on 18.12.2015, for which the mark-sheet was issued on 01.02.2016 that the private-respondent got emboldened to approach the High Court for a direction or mandamus upon the Union of India.

After having gone through the impugned order and having heard learned Additional Solicitor General, representing the Union of India, we have noticed that certain vital factual aspects of the dispute seems to have been missed out by the Learned Single



Judge, may be because the entirety of the scheme and applicability of the scheme was not fully brought before him.

The scholarship so announced related to the year 2014. The last date for making an online application by all such eligible candidates was 31st of October, 2014. On the declared results and marks by Bihar School Examination Board, the private-respondent did not fulfill the eligibility of being the topper of one per cent of the Board. He may have gone for re-evaluation, but since the declaration of the result after re-evaluation was much after the cut-off date and the mark-sheet was issued only on 01.02.2016, the scheme for scholarship had already closed and all those who are eligible for award of those scholarships against the funding available for the year had already been distributed.

The private-respondent could have had a case provided his marks of re-evaluation was declared prior to 30.10.2014 and he had made an online application for consideration. But admitted position is that since the private-respondent knew that he did not fall within the category of the top one per cent of the students he had not even applied for the scholarship before the authorities of Union of India.

These facts, therefore, having significance to the right of the private-respondent to command and beget the scholarship goes



to the root of the matter and keeping in mind that prior to 31.10.2014, the private-respondent had not applied for scholarship and that he did not have the requisite marks to demand such scholarship, the result which may have come in his favour after re-evaluation after the scheme had closed will be of no help or avail to him.

Therefore, the impugned order passed by the Learned Single Judge, dated 17.01.2017, issuing a mandamus upon the Union of India to pay scholarship was uncalled for.

We are satisfied that a case for interference with the order, dated 17.01.2017, is made out.

Appeal is allowed. The impugned order is quashed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

skm/-

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