

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9911 of 2017**

Vishun Roy College, Kiratpur Rajaram, Bhagwanpur, Vaishali through its President Rajdeo Roy son of Vishnu Roy Kiratpur Rajaram, Bhagwanpur, District - Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Govt, of Bihar, Patna.
2. The Director, Secondary Education, Patna.
3. Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna through its Secretary.
4. The Chairman, Bihar School Examination Board (Senior Secondary), Buddha Marg, Patna.
5. The Secretary, Bihar School Examination Board, (Senior Secondary), Buddha Marg, Patna.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                    |
|----------------------|---|--------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Tej Bahadur Singh, Sr. Advocate<br>Mr. Sunil Kumar Singh       |
| For the Board        |   | Mr. Satyabir Bharti                                                |
| For the State        | : | Mr. Subhash Chandra Mishra- SC-16<br>Mr. Samior Singh, AC to SC-16 |

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

3      10-09-2018                      Heard counsel for the parties.

The petitioner has questioned the decision of the Bihar School Examination Board (hereinafter to be referred to as ‘the Board’), whereby the affiliation granted in favour of Vishun Roy College, Kiratpur Rajaram, Bhagwanpur, Vaishali, has been withdrawn and the College Code No. 33014 has been set aside by the Board.

This writ application has been filed through Rajdeo Roy, who claims to be the President of the School/College in



question.

I have heard Mr. Tej Bahadur Singh, learned Sr. Counsel, appearing on behalf of the petitioner and Mr. Satyabir Bharti, learned counsel representing the Board.

Assailing the impugned order, Mr Tej Bahadur Singh has submitted that the decision of the Board to cancel the affiliation of the School/College is based on a report submitted by a three-man Committee, constituted on 12.01.2016, pointing out number of deficiencies and irregularities in the School/School. He has submitted that the report of the Committee was never made available to the Institution before the College was made to submit its reply to a show cause notice issued by the Board. He has next contended that the show cause notice to the School/College was issued on 04.06.2016 and the School/College was asked to submit a reply to the show cause notice by 15.06.2016. Thus, nearly 12 days' time only was given to the School/College to respond to the show cause notice which cannot be said to be adequate. He accordingly contends that the decision is in violation of the principles of natural justice. He has also drawn my attention to the letter dated 14.06.2016, written by the petitioner, addressed to the Secretary of the Board, seeking extension of time for the purpose of filing of



reply. In the said letter, the petitioner had pointed out that the inquiry report of the Committee was not made available nor the connected documents were available in the School/College, based on which the petitioner could prepare the show cause reply/explanation.

Mr Satyabir Bharti, learned counsel appearing on behalf of the Board, on the other hand, has submitted that there is no averment in the writ application that the petitioner has been authorized by the Managing Committee of the School/College to file the writ application. He has next submitted that the School/College was given adequate opportunity to file reply which the School/College did not file and, thus, based on the material available, the Board took the decision to cancel the affiliation.

Based on the rival pleadings on record and submissions made on behalf of the parties, one thing is evident that the impugned decision dated 16.06.2016 taken by the Board is based on an inquiry report of a Committee constituted by the Board.

This is not in dispute that while asking for the explanation from the School/College, in question, no report of the Committee was made available to the School/College or any



of its functionaries. In such circumstance, I find substance in the submission made on behalf of the petitioner that the action taken, in the absence of supply of the document, which was the basis for the Board to take a decision, is in breach of the principles of natural justice. The impugned order, therefore, requires interference. The impugned decision of the Board, as contained in letter dated 16.06.2016, issued under the signature of the Secretary of the Board, placed at Annexure-1 to this writ application, is hereby set aside, being illegal, arbitrary and in violation of principles of natural justice.

The Board shall, however, be at liberty to proceed against the petitioner, after supplying the copy of the inquiry report, other necessary informations and the document(s) which the Board considers to be the basis for cancellation of affiliation.

Mr. Satyabir Bharti, learned counsel for the Board has submitted that the inquiry report of the Committee is now available on record by way of Annexure-A to the counter affidavit filed in the present proceeding.

It goes without saying that the documents, which are there on record in the present proceeding, shall not be demanded by the petitioner, if the petitioner is asked to show cause for taking any action afresh for the purpose of cancellation of



affiliation. If the Board intends to proceed against the petitioner, such show cause notice must be issued to the School/College through its President Rajdeo Roy within a fortnight. It is, however, indicated in the peculiar facts and circumstances of the case and the nature of allegation made against the School that quashing of the impugned order will not amount to revival of affiliation of the School/College. I am passing this order in the peculiar facts and circumstances of the present case. It is, however, indicated that the Board shall be obliged to expedite the process of taking final decision in the light of the observations made hereinabove and must conclude it within a period of three months from the date of issuance of the show cause notice. The petitioner is directed to co-operate in this process. If the petitioner fails to co-operate, the Board shall be at liberty to proceed in accordance with law.

This writ application is allowed with the observation as above.

**(Chakradhari Sharan Singh, J)**

HR/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

