

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2389 of 2017

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Nishu Kumar, S/o Shri Krishna Mohan Sharma, Resident of Mohala-B/145
P.C. Colony, P.S. Kandarbagh, District-Patna

... .. Petitioner/s

Versus

1. Bihar School Examination Board through its Secretary, Patna, Bihar,
2. The Examination Controller, Bihar School Examination Board, Patna, Bihar,
3. B.M.D. College through its Principal Dayalpur, Vaishali

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar
For the Respondent/s	:	Mr. LALIT KISHORE, Advocate General
For the Board	:	Mr. Ranjit Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 04-01-2018 Heard learned counsel for the parties.

2. This writ application was filed seeking direction to the Bihar School Examination Board (hereinafter referred to as the Board) to issue admit card of the compartmental Intermediate Examination, 2017, which was going to be conducted by the Board since 14.02.2017.

3. The petitioner claims to be the student of B.M.D. College, Dayalpur, Vaishali. It is his case that he is registered with the Board with registration No. 33017-R-0820/14 and had appeared for the Intermediate Examination held in the year 2016. The petitioner, however, had failed in Biology paper in the main examination and subsequent compartmental examination too. Thereafter applied for the examination to be



held by the Board from 14.02.2017. As per the practice of the submission of the online form, form is filled up by the student, which is to be submitted to the College, whereafter, it is the responsibility of the College/School to ensure online submission of the application form to the Board. It is the petitioner's case that his online entry was successfully completed by the College. His admit card, was, however, not issued by the Board. The petitioner approached the Board and thereafter this Court, by filing present writ application.

4. The Board has filed a counter affidavit stating therein that with the intent to put a complete check on filling up of examination forms and fees through illegal methods by the concerned institutions, the earlier existing practice of manual submission of fees and forms had been done away with and in lieu thereof, system of online submission of forms and fees has been introduced. In the present case, the process of filing examination form and fees through online had started through Advertisement No. 42 of 2016, which has been followed for the subsequent examination also. It is the case of the Board in the counter affidavit that in order to facilitate filling up of submission of fees by the concerned institutional heads the provision for payment of fees through RTGS/NEFT had also



been made available. The case of the Board is that though the Board received the petitioner's online examination form, no examination fee in respect of the petitioner was paid by the concerned College.

5. It is specific case of the petitioner, on the other hand, that the petitioner had deposited the amount with the College in question and if the fees could not be paid by the Institution to the Board, the petitioner cannot be blamed.

6. On the other hand, it is the stand of the Board that in the absence of payment of examination fees, the petitioner could not be allowed to appear for the examination.

7. When the matter was taken up on 13.02.2017, the Court had directed the Board to allow the petitioner to appear in the examination provisionally. It was, however, made clear that if the Court was satisfied that the examination fee was not deposited by the petitioner, then the petitioner would not be allowed to plead equity for already having appeared in the examination and adverse inference might be drawn.

8. Pursuant to the said order, the petitioner was allowed to appear for the examination but his result has not been published.

9. A supplementary affidavit has been filed on behalf of



the petitioner bringing on record the receipt in support of his plea that the examination fee of a sum of Rs. 730/- was paid by him in the College.

10. Since it is not the case of the Board that the petitioner had not paid the examination fees in the College in question, rather, it is the case of the Board that the College in question failed to deposit the examination fees, in my view, it would be improper to allow the petitioner to suffer for no fault on his part.

11. In that view of the matter, I direct the Board to publish the petitioner's result. Since the only grievance which the Board has, is in respect of non-payment of examination fee, I, therefore, direct that publication of result shall be subject to payment of examination fee by the petitioner through demand draft drawn in the name of the Secretary of the Board within one month from today. The Board shall be obliged to publish result immediately thereafter.

12. I further direct the Board to enquire about the conduct of the officials of the concerned School including the Principal of the School. If it is found that the Principal of the College has received the amount against examination fees from the candidate and failed to deposit the said amount with the Board, it certainly constitutes criminal breach of trust, which is a



cognizable offence. The Board shall be obliged to proceed accordingly, thereafter.

13. This application is allowed.

(Chakradhari Sharan Singh, J)

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