

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14450 of 2016

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1. Narendra Kumar Son of Ram Kumar Singh Resident of Village- Rasalpur, P.O.- Rasalur, P.S.- Dumra, District- Sitamarhi, Presently posted as Assistant Teacher, High School, Beta Shanti Kutir, Nanpur, Sitamarhi.
 2. Bhawendra Kumar Mishra Son of Late Hirendra Nath Mishra Resident of Village- Saurath, P.O.- Saurath, P.S.- Rahika, District- Madhubani. Presently posted as Assistant Teacher (Secondary), R.N.T. High School, Baran Behta, Sitamarhi.
 3. Brahmdeo Prasad Son of Late Lal Bihari Sahu Resident of Village- Raghepura, P.O.- Braha, P.S.- Bisfi, District- Madhubani, Presently posted as Assistant Teacher (Secondary), Ramchanda High School, Lalgah, Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna.
3. The Secretary, Department of Human Resources Development, Government of Bihar, Patna.
4. The Director, Education Department, Government of Bihar, Patna.
5. The Joint Director, (Middle Education), Bihar, Patna.
6. The District Education Officer, Sitamarhi, Bihar.
7. The District Education Officer, Sheohar, Bihar.
8. The Secretary, Bihar School Examination Board, Bihar, Patna.
9. The Joint Secretary, Bihar School Examination Board, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jagjit Roshan

For the Respondent/s : Mr. PRABHAKAR JHA-GP27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date: 13-03-2018

Heard learned counsel for the petitioner, counsel appearing on behalf of the Bihar School Examination Board as well as learned counsel appearing on behalf of the State.

Petitioner is aggrieved by the order contained in letter No.241 dated 10.06.2015 (Annexure-12) whereby the petitioner has been blacklisted for alleged irregularity in evaluation of the answersheet.



The order indicate that the decision was taken in view of the fact that no explanation was received from the petitioner.

Learned counsel for the petitioner submits that the petitioner has requested the Board to supply information and document so that he may give effective reply to the show cause notice but the respondent- Board has neither supplied the document nor indicated that these documents are not relevant for the purpose of deciding the issue. Counsel for the petitioner has placed reliance on several documents to indicate that petitioner has submitted his explanation before the Secretary, Bihar School Examination Board indicating that there is no infirmity in the evaluation of answer book and no error was found in the scrutiny and as such petitioner cannot be any accountability.

Be that as it may, any order visiting civil consequences cannot be passed without providing opportunity of hearing. Principle of natural justice and fair play warrants that the respondent authorities must provide reasonable opportunity to the petitioner which includes providing relevant document to substantiate the explanation. Since the documents requested by the petitioner for filing effective reply are within domain of the Bihar School Examination Board, it was incumbent upon the Examination Board to provide these documents so that effective reply can be filed by the petitioner.

In the totality of the fact situation, the Court is of the view that



order as contained in Annexure-12 is in teeth of principle of natural justice and as such order contained in Annexure-12 cannot be sustained. Accordingly, the order as contained in Annexure-12 is set aside. However, the mater is remitted to the Bihar School Examination Board. The Secretary, Bihar School Examination Board is required to provide reasonable opportunity to the petitioner by providing relevant documents on which the charges are based and also to provide other relevant document on which the petitioner places reliance for submitting his explanation to the charges. Respondents are required to give fresh opportunity of hearing including supply of the relevant document within a maximum period of 15 days from the date of receipt / production of a copy of this order and thereafter provide 15 days time to the petitioner to file reply to show cause and on submission of the show cause reply, the respondent Board is required to consider the case of petitioner and pass speaking order within a period of 60 days from the date of issuance of show notice.

With the aforesaid, the writ application stand allowed to the extent indicated above.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	
Transmission Date	

