

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2197 of 2016
IN
Civil Writ Jurisdiction Case No. 16941 of 2015**

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1. Zainul Abdin S/o Wajid Ali R/o Village- BAura, Post- Musapur, P.S.- Korha, District- Katihar.

2. Md. Athar Ali S/o Sabir Alam R/o Kanhauli Azraqb, Bela Road, P.S.- Mithanpura, P.S.- Ramna, District- Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Education Department, Government of Bihar, Patna.

3. The Secretary, Bihar School Examination Board, Patna.

4. The Secretary, National Council For Teacher Education, 15, (Wing-2), Hans Bhawan-1, Bahadur Sah Jafar Marg, New Delhi-110002.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Fakhruddin Ali Ahmad

For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG15

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-01-2018

Seeking exception to an order dated 11.11.2016 in CWJC

NO. 16941 of 2015 passed by the learned Writ Court this appeal has been filed under Clause 10 of the Letters Patent.

Challenging the Bihar Elementary Urdu/Bangla (Special) Teachers Eligibility Test, 2013 conducted by the Bihar School Examination Board and making an allegation with regard to elimination of certain questions 13 in number and evaluation of answer-book of such test the writ petition was filed and the learned



Writ Court after taking note of the issue in question decided the matter in the following manner:-

“This Bench had the privilege of hearing the counsels for the parties extensively in the earlier writs. The Court gave adequate opportunity to one and all to place there facts and law and in fact the Court also went to the extent of even looking at some of the records and the decisions, which were also brought by way of affidavits.

All these cases came to be heard together and decided as a batch case and the relevant order is dated 06.05.2015, passed in the leading case, which was CWJC NO. 2650 of 2015, i.e. the case of Abdul Mazid. The Court concluded by giving a direction that all other earlier results will be of no avail and will be treated to have been annulled. The fresh result will be declared on the basis of deleted questions.

Obviously, the decision did not satisfy certain candidates since it did not suit them. The matter travelled before a Division Bench in LPA No. 1287 of 2015. The Court is informed that the Division Bench upheld the decision of the learned Single Judge and the Division Bench’s decision has now been affirmed by the Hon’ble Supreme Court.

The two petitioners now through the valiant effort made by their learned counsel want to reopen the controversy and put the entire process of selection and appointment in disarray The Court



has reasons to state so, because now a plea is taken that instead of evaluation of the answer-sheet on the basis of 13 deleted questions, 13 answers of some of these candidates which include the petitioners came to be deleted irrationally and randomly. The Court grilled the counsels or the petitioners as to what is the basis or the material brought before the Court to reconsider such issue afresh, when the issue stood finally decided right up till the Apex Court. These assertions are mere speculation, if not an effort to get a foothold for a failed candidate, rather than a genuine kind of grievance with regard to the evaluation, which have been made on the basis of the direction of the court.

In totality, therefore, a settled issue cannot be unsettled that too without any substantive material and evidence being on record.

The writ application, therefore, is merely to take a chance and is speculative in nature.

The Court cannot proceed in favour of the petitioners in the above background. The issue must rest now. The Court is also informed that the process of appointment has already been initiated and even appointments have been made on the basis of the previous decision and direction of the Court.”

In our considered view, once the issue was agitated with regard to examination conducted in the year 2013 and the matter



stood decided by the learned Writ Court, the Division Bench in LPA and was finally affirmed by the Supreme Court in refusing to make any indulgence in the matter as are indicated hereinabove, we find that no error has been committed by the learned Writ Court warranting reconsideration.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

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