

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15727 of 2016

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Rajesh Bharti Son of Shri Bhagwan Prasad resident of village - Vas hudeopur
Chaputa, P.O. Rajauli, P.S. Hajipur (Sadar), District - Vaishali

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar
2. Bihar School Examination Board (Senior Secondary), Patna through its
Secretary
3. Chairman, Bihar School Examination Board (Senior Secondary), Patna

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava
For the State	:	Mr. Amit Bhushan, AC to GP17
For the BSEB	:	Mr. Parth Sarthy
		Mr. Kumar Vikram
		Mr. Avinash Chandra

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

10 23-01-2018 Aggrieved by letter, dated 28.06.2016, whereby the Bihar School Examination Board had communicated to the petitioner suspension of affiliation granted by the Bihar School Examination Board in favour of Sanjay Singh +2 Senior Secondary School, Adalpur, Dighikala, Hajipur, this writ application, under Article 226 of the Constitution of India, was filed, on 17th September, 2016.

Learned Counsel for the petitioner has submitted that no power of suspension of affiliation is vested with the Bihar School Examination Board either under the Bihar School Examination Board Act, 1952 or under the Rules/Regulations



framed thereunder.

During the pendency of this writ application, certain developments have taken place. The petitioner has been communicated about the cancellation of affiliation by letter, dated 14.09.2017, on the basis of the decision of the Committee of Affiliation, dated 14.09.2017

By way of an interlocutory application, being I. A. No. 8235 of 2017, the said letter, dated 26.09.2017, is sought to be assailed, by seeking amendment in the relief portion of the main writ application.

In my view, however, an appeal lies against the decision of the Committee of Affiliation, constituted under Section 10-B of of the Bihar School Examination Board Act, 1952, before the State Government, under sub-Section (4) thereof. Section 10-B of the Bihar School Examination Board Act, 1952, for quick reference, is being re-produced herein below:-

“10B. Committee of Affiliation.-

(1) A Committee of Affiliation shall be constituted by the Board for granting and withdrawing affiliation of Secondary and Senior Secondary Schools established by non-governmental organisations.

(2) The Committee of Affiliation



shall consist of the following:

(i) Chairman of the Board

(ii) A person to be nominated by the Board.

(3) The Chairman of the Board shall function as the Chairman of the Committee, and the Secretary of the Board shall function as Secretary of the Affiliation Committee.

(4) Any person dissatisfied with decision of the Committee constituted under Section 10-B may prefer an appeal within 30 (thirty) days of the communication of the decision before the State Government, who shall be the Appellate Authority and his decision shall be final.”

(Emphasis is added)

It is clear from the language of sub-Section (4) of Section 10-B of the Bihar School Examination Board Act, 1952, that it is the decision of the Committee of Affiliation, which a person may, if dissatisfied with, prefer an appeal within 30 days of communication of the decision. What has been communicated to the petitioner is the decision of the Bihar School Examination Board, based on the decision of the Committee of Affiliation.

This application is accordingly disposed of with an



observation that the petitioner should avail the alternative remedy under sub-Section (4) of Section 10-B of the Bihar School Examination Board Act, 1952 by way of appeal before the State Government of Bihar.

The Secretary, Bihar School Examination Board, is directed to ensure that the decision of the Committee of Affiliation, as it is, whereby it has been decided to cancel the affiliation of the school, in question, be made available to the petitioner within a fortnight from today. The petitioner thereafter shall be at liberty to prefer appeal within the period of limitation prescribed under the Act. If the appeal is preferred within the time limit prescribed under the Act, the Appellate Authority shall be obliged to dispose it of within a period of three months thereafter.

This application stands disposed of.

(Chakradhari Sharan Singh, J)

Prabhakar Anand/-

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