

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4258 of 2018

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Rupika Kumari, daughter of Bambam Thakur, Wife of Akhilesh Kumar Thakur, Resident of Mohalla- Ward No.- 9, P.O. P.S.- Sonbarsa Raj, and District- Saharsa.

... .. Petitioner/s

Versus

1. The Chairman / Secretary, Bihar School Examination Board, Patna.
2. The Controller of Examination, Intermediate Examination, Bihar School Examination Board, Patna.
3. The Principal Jawahar Inter School Maheshkhunt, District- Khagaria.
4. The Principal Maharaja Hariballav Memorial College, Sonbarsha Raj, District- Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Ravi Shankar
For the Respondent/s	:	Mr. Lalit Kishore
For the BSEB	:	Mr. Partha Sarthi
For the BNMU	:	Mr. Ritesh Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 02-07-2018 Heard learned counsel for the parties.

2. There are certain facts which are not at all in dispute. The petitioner had appeared in Intermediate Examination (Science stream) held by the Bihar School Examination Board, in 2017, with Physics, Chemistry, Biology as optional subjects and Mathematics, as an additional subject. She was declared pass with second division, showing her score in theory-I and theory-II of Biology papers as 11 and 10. It was subsequently noticed by the Board that she had in fact scored 8 marks only in theory-I paper and mistakenly her result was published, showing the petitioner to have passed with second



division. With 8 marks in theory-I paper of Biology, she has been declared 'fail' in Biology paper.

3. Invoking Clause-4 of the Regulations regulating Intermediate Examination of BSEB, a modified result of the petitioner has been published. The petitioner has now been placed in third division. Her grading has been done, taking into account her score in best three papers namely Physics, Chemistry and Mathematics, which grieves the petitioner. Petitioner has been shown to have scored 51 in Physics, 47 in Chemistry and 36 in Mathematics (total 134 in best four papers), in the modified result.

4. It is evident from the Regulation, which has been brought on record by way of Annexure-A to the counter affidavit filed on behalf of the Bihar School Examination Board, that the petitioner is apparently short of only one mark to achieve 45 per cent, to achieve second division as per the revised result. The petitioner's score in MAE/NRB (Non *Rashtra Bhasha* and English) are 49 and 41 respectively. The total marks scored by the petitioner is thus, 224 out of 500. For the purpose of the problem, which the petitioner is suffering, I may take note of Clause-5 of the Regulations which reads thus:-

“If a candidate is short of the minimum aggregate marks prescribed for



1st and 2nd Division by 5 marks or less, he/she shall be given the minimum marks required to make up the deficiency and shall be placed in higher division but the position in that higher division shall be determined on the basis of the original marks secured by him.

In no case double benefit of regulation shall be allowed.”

5. The Regulation 5 provides for giving additional marks for the purpose of making of deficiency, if a candidate is failing to get first or second division, being short of 5 marks or less. The petitioner's score is apparently one mark less than that required to award her second division.

6. This application is, accordingly, disposed of with a direction to the Secretary, Bihar School Examination Board, to consider the petitioner's case in the light of Regulation 5 of the Regulations as quoted above and take a decision within two weeks' from the date of receipt/production of a copy of this order, accordingly.

7. On the basis of earlier result published by the Bihar School Examination Board, the petitioner is pursuing her study in B.A. (Honours) Course under B.N. Mandal University, Madhepura, she apprehends that if the decision of the Bihar



School Examination Board is allowed to be sustained her admission in B.A. (Honours) Course can be questioned.

8. The Court observes, in view of the discussions above, that the petitioner shall be allowed to pursue her B.A. (Honours) Course without any interference on the facts as discussed in the preset case.

9. This disposes of the application.

(Chakradhari Sharan Singh, J)

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