

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.533 of 2018

IN

Civil Writ Jurisdiction Case No. 18888 of 2017

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Ankit Kumar, S/o Dharmendra Kumar Thakur, R/o Village-Bariyarpur, P.O-Bariyarpur, P.S-Sakra, District-Muzaffarpur

.... Appellant/s

Versus

- 1.The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
- 2.The Chairman, Bihar School Examination Board, Patna.
- 3.The Secretary, Bihar School Examination Board, Patna.
- 4.The District Education Officer, Vaishali at Hajipur.
- 5.The Principal, L.N.College, Bhagwanpur, Vaishali.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Mushtaque Alam,Adv

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

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 17-05-2018

Challenge in the present Letters Patent Appeal is to the order dated 19.03.2018 passed by the learned writ Court in C.W.J.C No.18888 of 2017. By the impugned order the learned writ Court has refused to direct the respondent Bihar School Examination Board, Patna(hereinafter referred to as “the Board”) to declare the result of the petitioner of Intermediate Science Examination, 2017, after adding marks of Practical examination.



2. The learned writ Court has noticed that there is a dispute as to whether the petitioner had appeared in the Practical examination or not which was held on 04.04.2017. The petitioner claimed that he had appeared for the Practical examination and his attendance was marked but he has been shown to be absent in the mark-sheet. The petitioner has provided an information that when he informed about this from the Principal, L.N.College, Bhagwanpur, he was told that he had been awarded 25 marks in the Chemistry Practical paper.

3. The Board has contested the stand of the petitioner stating that the petitioner was student of V.R.College, Kiratpur, Vaishali and had appeared for the Intermediate Science Examination in the year 2016. On account of large scale of malpractice, the results of the students of the said College was cancelled. They were however allowed to appear at the subsequent Intermediate Examination in 2017 through any adjoining recognized College or +2 school. The petitioner had filled up his



examination form through a nearby L.N.College, Bhagwanpur. He was to appear as an ex student, his examination form was wrongly forwarded by the L.N.College, Bhagwanpur, as an improvement candidate. It is because of incorrect forwarding of examination form that the petitioner was earlier treated as improvement candidate and accordingly, admit card was sent. Later on a new admit card with a different roll number showing the petitioner to be an ex student was issued. It is further asserted that in the computerized award sheet meant for sending practical marks by the L.N.College, Bhagwanpur, to the Board, the petitioner had been marked absent and, accordingly, the petitioner was declared 'fail'. Subsequently, the College manually sent the practical marks of the petitioner and two others in suspicious circumstances and, therefore, the same was not accepted.

4. The learned writ Court has concluded from the pleadings exchanged in course of hearing and having noticed the serious nature of disputes over the appearance of the petitioner in the practical examination, refrained itself from



granting the relief prayed in the writ application.

5. Learned counsel representing the petitioner-appellant submits that the petitioner cannot be allowed to suffer for the laches on the part of the College in question. It is stated that the appellant had appeared in the practical examination but the College had wrongly shown him 'absent'.

6. Learned counsel representing the Board has opposed the appeal and submits that earlier the College in question had sent the computerized report in which this petitioner was shown absent and was declared failed but later on a manual sheet was sent with regard to three candidates including the present petitioner which was highly suspicious and has not been acted upon by the Board.

7. Having heard learned counsel for the parties and on perusal of the records we find that in the nature of the disputes with regard to presence of the petitioner in the practical examination, the learned writ Court could not have decided the issues on the basis of the affidavits exchanged by



the parties. The writ Court has rightly refrained itself from recording a finding of fact on the disputed question which were being contested by the parties. We find no reason to interfere with the impugned judgment and the order of the learned writ Court.

8. The Letters Patent Appeal is thus dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha

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