

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.419 of 2018

In
Civil Writ Jurisdiction Case No.10720 of 2017

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1. Bihar School Examination Board
 2. The Secretary, Bihar School Examination Board, Budha Marg, Patna.
 3. The Controller of Examination, Bihar School Examination Board, Patna.

... .. Appellant/s

Versus

1. Aarushi Barnwal and Ors Daughter of Sh. Rohit Kumar Resident of Main Road, Fal Gali, Post and Police Station - Nawada, District - Nawada.
2. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The District Program Officer Establishment, District - Nawada.
5. The District Education Officer, Nawada.
6. The Principal, Project Kanya Inter School, Nawada.

... .. Respondent/s

Appearance :

For the B.S.E.B.	:	Mr. Manish Kumar, Advocate
For the Respondent/s	:	Mrs. Nivedita Nirvikar, Advocate
		Mr. Subodh Kumar Barnwal, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-02-2019

I.A. No. 2673 of 2018

Having heard learned Counsel for the parties, we are satisfied that the delay has been sufficiently explained. The delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No. 419 of 2018

Bihar School Examination Board is in appeal before



us questioning the correctness of the judgement dated 07.08.2017 contending that the learned Single Judge could not have allowed the writ petition treating it to be a matter of equity when the rules relating to admissions are clear and unambiguous.

The background in which this appeal has been filed is that the respondent-petitioner passed her class X examination from the Central Board of Secondary Education and thereafter pursued her XIIth class course in an institution where examinations were conducted by the Bihar School Examination Board. She passed the said examinations with 282 marks and the results were declared on 30th of May, 2017.

The respondent-petitioner had also appeared in the Joint Entrance Examination for admission in the Bachelor of Architecture course and she succeeded in the said examinations and got admission in the University Institute of Architecture of Chandigarh University on 4th of July, 2017.

The respondent-petitioner had also applied for scrutiny of her marks in the Physics paper before the Board as she was expecting higher marks than what had been awarded and this had been done in an anticipation of being awarded higher marks. The scrutiny had been applied prior to her



admission at Chandigarh on 6th of June, 2017.

The results of scrutiny were declared thereafter, as a consequence whereof, her marks in Physics was reduced by 5 marks. This reduced her aggregate which was required for the purpose of seeking admission in an institution having cleared the Joint Entrance Examination.

The irony in this case is that the respondent-petitioner was fully eligible in accordance with the marks obtained by her at the time when she appeared in the Joint Entrance Examination, but by virtue of the reduction of marks on scrutiny which took place later on, she was to lose her admission which she had validly achieved through the entrance examination.

Learned counsel for the appellant is correct in his submissions that according to the rules, if the marks have been reduced, the advantages or disadvantages which are necessary for scrutiny have to be abided by the candidate and the same cannot be altered merely because the respondent-petitioner has succeeded in the Joint Entrance Examination. His contention, therefore, is that the learned Single Judge, on the principles of equity, could not have allowed the writ petition on any ground.

We find that the argument on behalf of the appellant to that extent does not suffer from any legal inadequacy, but the



fact remains that the respondent-petitioner having succeeded in the Joint Entrance Examination has pursued a course which by now she must have completed half way. In this background, even though we are accepting the arguments on behalf of the appellant, yet we decline to interfere with the impugned judgement on the peculiar facts of this case, which shall not be treated as a precedence.

We, further, are of the opinion that the judgement dated 16.05.2018 in L.P.A. No. 1113 of 2017 has already reversed the judgement in C.W.J.C. No. 7623 of 2016, a copy whereof has been placed before us. Thus, the same also could not be a ground of extending any relief to the respondent-petitioner, but in view of what has been stated above, this L.P.A. is consigned to records accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

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