

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10735 of 2019

Nibha Kumari @ Niva Kumari, Wife of Akhileshwar Rai, Resident of Village- Chauchakka, P.S. Kuchaikot, District Gopalganj, the Principal Shree Mahendra Das Inter College, Mathia, Nechua Jalalpur, P.S. Kuchaikot, District Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Gopalganj, District-Gopalganj
2. The District Education Officer, Gopalganj, District- Gopalganj.
3. The Bihar School Examination Board, Patna through its Secretary
4. The Secretary, Bihar School Examination Board, Patna.
5. The Director, (Education), Bihar School Examination Board, (Senior Secondary) Patna.
6. The Examination Controller, Bihar School Examination Board, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Prabhat Ranjan Singh, AC to AAG-15
For the BSE Board	:	Mrs. Namrata Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 17-09-2019 Pursuant to the order of this Court dated 20.08.2019, the Additional Chief Secretary, Education Department as well as the Chairman of the Board has filed counter affidavit.

2. The Additional Chief Secretary-cum-Principal Secretary, Education Department referring to the press communique dated 20.05.2018 submitted that the Principals of the College/ + 2 Schools were required to deposit fee for increased number of students by 28.05.2018. He admitted that the petitioner has deposited the requisite fee vide demand draft dated 26.09.2018 and the case of the petitioner-institution was



forwarded by the District Education Officer vide letter no. 583 dated 05.11.2018, but nothing tangible came.

3. The Court fails to understand the purpose of using the expression nothing tangible came in para 7 of the counter affidavit of the Additional Chief Secretary-cum-Principal Secretary, Education Department. The respondents including the Bihar School Examination Board is required to take appropriate decision on the representation of the petitioner, which has been forwarded by the District Education Officer vide letter no. 583 dated 05.11.2018, but the Bihar School Examination Board as well as the Additional Chief Secretary-cum-Principal Secretary, Education Department is conspicuously silent on that point.

4. The Court in the above situation direct the Additional Chief Secretary-cum-Principal Secretary, Education Department to see that appropriate decision, if required at the level of officers of the Education Department is taken in connection with the representation of the petitioner for increase of intake capacity at the earliest preferably within a period of one month from today.

5. Similarly, the Chairman of the Bihar School Examination Board is required to take decision if the matter is pending at the level of the Board so far as the claim of the



petitioner for increase of intake capacity after verification of the infrastructure for such increase within the time frame of one month from today.

6. If ultimately, the case of the petitioner finds favour with the Board, the Bihar School Examination Board will accept the registration form of the students of institution as an exceptional case within a period of 15 days of the final decision taken by the Board and grant all other consequential benefits at the earliest.

7. Adverting to the main issue, which led the Court to direct the Additional Chief Secretary-cum-Principal Secretary, Education Department and the Chairman of the Board to file counter affidavit, the issue of unguided power increase of intake capacity. The Additional Chief Secretary-cum-Principal Secretary, Education Department as well as the Chairman of the Board has not properly understood the concern of this Court. The concern of this Court was that increase in the admission intake capacity must be reletable to the infrastructure and teaching facility and simply because of deposit of fee, one cannot be allowed to increase the intake capacity.

8. In the counter affidavit filed by the Additional Chief Secretary-cum-Principal Secretary, Education Department



it has been noted that the Bihar School Examination Board proposes to amend the requirement and to provide minimum increase of one section with minimum 40 students.

9. This is the reflection of the actual approach of the respondent Additional Chief Secretary-cum-Principal Secretary, Education Department as well as Chairman of the Bihar School Examination Board.

10. The issue is not the minimum increase, but maximum increase as well as infrastructural facility for increase. The unlimited increase of intake in regulation on deposit of fee led the Court to direct the respondents to file affidavit. In order to manage the academic environment and to maintain discipline in and around the institution, there should be cap on the maximum increase but that was given a total go by the expert committee of the Bihar School Examination Board. The Chairman of the Board has also not addressed that issue and in similar terms, the Additional Chief Secretary-cum-Principal Secretary, Education Department has also not noticed the absurdity in the regulation, which does not provide any cap on the maximum increase. The counter affidavit indicates that the concern of the Court is taken note by the Examination Board as well as by the Education Department, but the seriousness is



not reflected in the counter affidavit filed today in the Court.

11. While disposing of the writ application, so far as the claim of the petitioner is concerned, as indicated herein above, the respondents are directed to see that there should be cap on the maximum increase in the intake capacity and the increase in the intake capacity must be reletable to the available infrastructure and teaching facility so that the quality education is imparted. The infrastructure must include the drinking water facility, separate toilet facility for boys and girls and necessary infrastructure for maintaining health and hygiene in and around the school.

12. Necessary corrective measures including the amendment in the regulation as suggested in the counter affidavit must be carried out by the respondents at the earliest preferably within a period of two months from the date of receipt/production of a copy of this order.

13. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

uday/-

U			
---	--	--	--

