IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19221 of 2019

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Subodh Kumar Singh Son of Diwakar Prasad Singh Resident of Village-Bora, P.O.- Chaknathu, P.S.- Amdanda, District- Bhagalpur.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary Department of Transport, Government of Bihar, Patna.
3. The Chairman Bihar School Examination Board, Patna.
4. The Secretary Bihar School Examination Board, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chandra Shekhar Sharma Mr.Dhirendra Nath Jha
For the Respondent/s	:	Mr.Kameshwar Kumar (Gp17)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

2 17-09-2019 Office objection stands overruled.

Heard Mr. Dhirendra Nath Jha, learned counsel for the petitioner and the counsel appearing on behalf of the State as well as Mr. Girijesh Kumar, learned counsel appearing on behalf of the Bihar School Examination Board.

Mr. Girijesh Kumar at the very outset submits that the one week's time may be granted to the Board to file counter affidavit in the present case.

Learned counsel appearing on behalf of the State would submit that he wants two weeks' time as last date for submission of application is 25.9.2019. Today is 17.9.2019.

Considering the fact that the last date is expiring on 25th September, 2019, the Court instead of adjourning the case is of the view that the issue requires decision at the level of the respondents in the matter of one time age relaxation of the view of fact that the present application deserves to be disposed of at this stage.

Learned counsel appearing on behalf of the petitioner has submitted that State Teacher Eligibility Test has been conducted after interval of seven years and the age prescribed for such examination is 37 years in general category and the petitioner has become now 40 years old and as such he became ineligible. He submits that he should not suffer for non holding examination of the STET on regular basis. The petitioner would have availed the opportunity if the respondents would have conducted the examination of STET on time. It is well settled proposition of law that one cannot take advantage for his own fault, defeating the rightful claim or expectation of any citizen. This aspect of the matter was considered by the then Chief Justice of Bombay High Court in the case of **All India**

Groundnut Syndicate Limited Vs. Commissioner of Income Tax, Bomnay City, reported in **AIR 1954 Bombay 232.** The Chief Justice Chhagla has articulated that failure on the part of the respondents cannot be a ground to defeat claim or right of the petitioner. The relevant part of the judgment is quoted hereinabove:

> “But the most surprising contention is put forward by the Department that because their own officer failed to discharge his statutory duty, the assessee is deprived of his right which the law has given to him under Sub-section (2) of Section 24. In other words, the Department wants to benefit from and wants to take advantage of its own default. It is an elementary principle of law that no person--we take it that the Income-tax Department is included in that definition--can put forward his own default in defence to a right asserted by the other party. A person cannot say that the party claiming the right is deprived of that right because "I have committed a default and the right is lost because of that default."

Since there is responsibility of the respondent to conduct the examination on annual basis as per scheme they cannot render the petitioner ineligible holding that now he became overage.

Under the aforesaid circumstances, the Court directs the respondents to consider the case of the petitioner for grant one time age relaxation in the matter.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

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