

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21368 of 2019

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Nagma Praveen, Female, aged about 20 years, Daughter of Shri Md. Shamim,
Resident of Lalkothi Danapur, Dinapur-cum-Khagaul, P.S. Danapur, District
Patna, Pin Code- 801503.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Bihar, Patna.
2. Bihar School Examination Board, Patna through its Secretary.
3. Chairman, Bihar School Examination Board, Patna.
4. Secretary, Bihar School Examination Board, Patna.
5. Joint Secretary-cum-Controller of Examinations, Bihar School Examination
Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Abhinav Srivastava, Advocate
For the State	:	Mr. Kameshwar Kumar, G.P.17

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT

Date : 19-12-2019

Heard both sides.

2. The petitioner seeks following reliefs:

(i) For issuance of a direction, order or writ, including writ in the nature of certiorari quashing the order dated 24.04.2018, passed by the Joint Secretary-cum-Controller of Examination, Bihar School Examination Board, Patna (hereinafter referred to as 'the Board') (Annexure-7) by which while cancelling the candidature of the petitioner and her registration to participate in the Intermediate Special Examination, 2017, it has been ordered that the result of the petitioner pursuant to the said examination would not be published/issued.



(ii) For issuance of a direction, order or writ, including writ in the nature of certiorari quashing the report dated 14.04.2018 submitted by the Misconduct Enquiry Committee constituted by the Board by which while recording the finding to the effect that the petitioner was guilty of having got her name registered from two different schools, one in the district of Nawada and the another in the district of Arwal, for participating in the Intermediate Examination to be conducted by the Board during the year 2017, it has been recommended that while cancelling both the registration standing in the name of the petitioner, her candidature be cancelled.

(iii) For issuance of a direction, order or writ in the nature of mandamus commanding the respondents authority of the Board to publish the result of the petitioner on the basis of her performance in the Intermediate Special Examination, 2017 in which she was allowed to participate pursuant to the order passed by this Court in terms of the directions contained under order dated 11.12.2017, passed by a Division Bench of this Court in L.P.A. No.955 of 2017.

(iv) For any other relief which the petitioner may be found to be entitled to on the facts and in the circumstances of the case.

3. The only question arises for consideration as to whether the respondents authority of the Board are justified in holding the result of the petitioner who appeared in the Special Examination of 2017 in pursuance of the order passed in C.W.J.C. No.7717 of 2017 and the order dated 11.12.2017, passed by a Division Bench of this Court in L.P.A. No.955 of 2017 that too on the basis of a report dated 14.04.2018 submitted by the Misconduct Enquiry Committee constituted by the Board in which the petitioner did not participate?



4. The admitted facts bereft of unnecessary details are that the petitioner was a student of Aditya Singh High School, Hisua and she appeared and passed the Secondary School Examination, 2015 in the second division. She got admission in the Intermediate course in Magadh Central Senior Secondary School, Hospital Road, Hisua, Nawada in the year 2015 as a regular student. The petitioner got Registration No.0027-15. A press release was issued on 03.03.2017 vide Press Release No.19/2017 by the Board in which it has been stated that 150 students filled online forms from two institutions having two different registration numbers and the Board cancelled the candidature of all those 150 students by the aforesaid press release. The name of the petitioner also found place at serial no.45. The petitioner submitted representation before the respondents authority of the Board to take necessary steps and issue admit card enabling the petitioner to participate in the Intermediate Examination, 2017 but no action was taken and the petitioner could not participate in the Annual Intermediate Examination, 2017. The petitioner moved before this Court in C.W.J.C. No.7717 of 2017 for partially quashing the press release containing the list and also made prayer to allow the petitioner to appear in the Special Intermediate Examination, 2017. This Court by order dated 23.06.2017, passed in C.W.J.C. No.7717 of 2017 pleased to direct the respondents authority of the Board to cancel the additional registration number issued in the name of the petitioner allow the petitioner to appear in the Compartmental Intermediate Examination to be held by the Board. This Court further directs the Secretary of the Board to enquire into the matter with regard to role of the Principal of the second school from where the petitioner also got registration number and take appropriate action against the Principal. The Board preferred L.P.A. No.955 of 2017 and the



Division Bench of this Court directed that the enquiry, as directed by the writ Court, was to be concluded within a period of one month from the date of passing of the order and depending upon the outcome of the enquiry, if the present petitioner stood exonerated, the result in the of the compartmental examination undertaken by her was to be declared or else the Board was free to cancel her examination with liberty to the writ petitioner to challenge the outcome of the enquiry report and the order issued by the Board. The petitioner appeared in the Special Intermediate Examination, 2017 but no order was passed. The petitioner filed contempt petition being M.J.C. No.851 of 2018. During the pendency of the contempt petition, the Board disclosed that on the basis of the enquiry report dated 14.04.2018, the Board has already issued order on 24.04.2018 and found petitioner guilty of misconduct and ordered for cancellation of her candidature and non-publication of the result and thereafter the petitioner filed this writ petition.

5. Learned counsel for the petitioner submits that of course the Board constituted a Misconduct Enquiry Committee in pursuance of the order of Writ Court as well as the the order of the Division Bench dated 11.12.2017, passed in L.P.A. No.955 of 2017 but no notice was ever issued to the petitioner. The petitioner never participated before the enquiry conducting officer. The enquiry conducting officer issued notice to the Principal of Aditya Singh High School, Hisua and the Principal of Bakhori Singh Senior Secondary School, Karpi (Arwal). On the basis of the documents, the Enquiry Committee found from the record of Magadh Central Senior Secondary School that Nagma Praveen, the petitioner, was legally and duly admitted in the school on 28.08.2015 and her name appeared at serial no.108 in the admission register but from perusal of the records of Bakhori Singh Senior



Secondary School, Karpi, the Committee found that the petitioner was admitted on 01.11.2015 and her name appeared at serial no.207 in the admission register. There is overwriting on the date of admission. There is difference between the register of admission and the register of attendance of students. The Enquiry Committee found that the original School Leaving Certificate was not submitted in the Bakhori Singh Senior Secondary School, Karpi at the time of admission of the petitioner and on enquiry, the Principal of the school disclosed that the petitioner herself withdrew the School Leaving Certificate on 18.01.2017 after giving an application but the Committee found that the application was not in the handwriting of Nagma Praveen, the petitioner. There is no acknowledgment of the petitioner for receiving the School Leaving Certificate from Bakhori Singh Senior Secondary School, Karpi after admission. The Committee also found interpolation, overwriting and difference of signature of the Principal on the School Leaving Certificate. The photograph of the petitioner did not tally with the photograph affixed on the admission application and registration application but the Committee found that in both the schools on Adhar Card and Matriculation Marksheet, the name of the parents of the petitioner are same and, therefore, the petitioner and her parents illegally got the petitioner admitted in Bakhori Singh Senior Secondary School, Karpi. On the basis of such suspicious and not conclusive report finding the petitioner guilty of such mal-practices, the respondents cancelled the candidature of the petitioner and ordered for non-publication of the result.

6. The respondent Board filed counter affidavit and supplementary counter affidavit. Learned counsel appearing on behalf of the Bihar School Examination Board submits that the petitioner was only allowed



to appear at the Special Compartmental Examination in pursuance of the order dated 23.06.2017, passed in C.W.J.C. No.7717 of 2017 and the order dated 11.12.2017, passed in L.P.A. No.955 of 2017 but from the enquiry report, it transpires that the petitioner got herself registered twice for session 2015-17 from two different schools as a regular candidate. The petitioner was firstly admitted in Magadh Central Senior Secondary School, Hospital Road, Nawada and thereafter she got herself admitted in Intermediate level High School, Karpi (Arwal) by making online application from two institutions. The petitioner got two registration numbers, i.e., 'R-230810027-15' as being regular student of Magadh Central Senior Secondary School, Nawada and 'R-250080038-15' being regular student of Intermediate level High School, Karpi (Arwal) but this manipulation has been detected and altogether 150 students were found admitted in two schools and got registration numbers from two schools. Accordingly, on the basis of such double registration, the candidature of 150 students were cancelled and the name of the petitioner also appeared at serial no.45 in the list. When the petitioner moved before this Court, the Writ Court as well as the Division Bench in L.P.A. No.955 of 2017 directed the respondents to allow the petitioner to appear at the examination but the publication of result would be subject to the result of the enquiry report. An enquiry was conducted and it was found that the petitioner and her parents committed misconduct by getting the petitioner admitted in two schools as regular student and also got two registration numbers from two schools to appear at the examination. Such misconduct has been committed only with a view to get good result by impersonating the petitioner in the examination by someone else that is why on the basis of the enquiry report, the respondents cancelled the candidature of the petitioner and decided not to



publish the result of the petitioner. It is further submitted that affiliation of Bakhori Singh Senior Secondary School, Karpi (Arwal) has already been cancelled vide Board's Letter No.3637, dated 22.11.2016 and also directed the District Education Officer, Arwal to lodge the FIR against the then Principal of Bakhori Singh Senior Secondary School, Karpi (Arwal) as well as against the petitioner and, therefore, this much is clear that the petitioner has not come to this Court with clean hands and the writ is fit to be dismissed. The Board has exercised power for not publishing the result of the petitioner in view of the provisions as contained in Section 18 of the School Examination Laws.

7. Having considered the submissions of both sides and on perusal of the order of this Court passed in C.W.J.C. No.7717 of 2017 and the order passed in L.P.A. No.955 of 2017, I find that the petitioner firstly admitted herself in Magadh Central Senior Secondary School, Hospital Road, Nawada after passing Xth examination in the year 2015 as a regular student but it transpired that the name of the petitioner also got admitted in Intermediate Level High School, Karpi (Arwal) and the petitioner got two registration numbers. Accordingly, on the basis of such, the candidature of the petitioner was cancelled and she was not allowed to appear at the examination. The petitioner moved this Court in C.W.J.C. No.7717 of 2017. This Court by order dated 23.06.2017 allowed the petitioner to appear with first registration number on which the photograph of the petitioner was tallying and also ordered for holding an enquiry about the role of the Principal of Intermediate Level High School, Karpi (Arwal) leading to generation of second registration certificate of the petitioner. Against this order, the Board preferred L.P.A. No.955 of 2017 and the Division Bench of this Court vide order dated



11.12.2017 disposed of the L.P.A. with a direction to the Board to allow the petitioner to appear and also hold an enquiry. The publication of the result of the petitioner was subject to her exoneration in the enquiry report with liberty to the petitioner to challenge the enquiry report, if she is found guilty. In pursuance thereof, the Misconduct Enquiry Committee was constituted and the Enquiry Committee found that the petitioner was firstly admitted in Magadh Central Senior Secondary School, Nawada in accordance with procedure and law. All the documents with regard to admission, registration, bank account and the registration forms of Magadh Central Senior Secondary School were found in order but on examination of the record of Bakhori Singh Senior Secondary School, Karpi (Arwal), many irregularities and discrepancies were found. Overwriting was found in the admission register. Even the photograph of the petitioner was not tallying with the photograph affixed on the forms for registration from Bakhori Singh Senior Secondary School, Karpi but since the Adhar Card, Matriculation Marksheet, the parents' name and address of the petitioner were found correct, the petitioner and her parents were found guilty of committing misconduct for getting admission in the school school with ulterior motive. From the report itself, I find that there is no material on record to show that it was the petitioner who got herself admitted in Bakhori Singh Senior Secondary School, Karpi (Arwal). Even the signature of the petitioner was not tallying with the signature appearing on the application for withdrawal of original School Leaving Certificate. Many interpolation, deletion and overwriting were found in the registers of the schools with regard to admission of the petitioner. Admittedly, the petitioner was minor on the date of her admission in the school and the Enquiry Conducting Officer did not collect any document to show that it was the



petitioner and not either her parents or her relatives got her illegally admitted in the second school with ulterior motive of fetching good marks in the Intermediate examination by allowing somebody else to appear at the examination on behalf of the petitioner. This act might have been committed by the parents of the petitioner but by such misdeeds of the parents of the petitioner, the cancellation of candidature of the petitioner and withholding the result of the petitioner in my view is not justified and legal. The petitioner has already lost two academic years firstly on account of cancellation of her candidature to appear at the Intermediate Annual Examination, 2017 and later on although the petitioner was allowed to appear at the compartmental examination but her result was withheld subject to the result of the enquiry report. Section 18 of School Examination Laws says about the mal-practice, indiscipline, etc. that in case it was found that the examination has been violated by error, improper conduct, or other causes or where mal-practice, fraud, or act of indiscipline or use of unfair means are reported to have been practised, the Board shall have the power to cancel the examination or to withhold or amend the result in such cases and to take such other action as it may deem fit. This provision itself shows that such mal-practice and unfair means or act of indiscipline should have been committed by the examinees during the course of examination. If the parents of an examinee, who was admittedly minor on the date of registration or admission, got such a candidate admitted in second school or got second registration number with ulterior motive, on account of such illegal acts of parents, such examinee should not be allowed to suffer, therefore, I find that the order dated 24.04.2018 as contained in Annexure-7 is illegal and not sustainable. Accordingly, the order dated 24.04.2018 as contained in Annexure-7 is



quashed. The respondents are directed to publish the result of the petitioner within two months from the date of this order.

8. In the result, the writ petition is allowed as aforesaid.

(Prabhat Kumar Jha, J)

S.KUMAR/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2020
Transmission Date	NA

