

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17768 of 2018

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Shashank Shekhar Sinha, Son of Surendra Prasad Sinha, Resident of Mohalla-
Kisan Colony, Anisabad, P.O. Anisabad, Patna 800002.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Hon'ble Patna High Court through its Registrar General, Patna High Court, Patna.
3. The Selection Cum-Appointment Committee, Patna High Court Patna.
4. The Registrar General, Patna High Court, Patna.
5. The Registrar, Appointment, Patna High Court, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Roy, Advocate Mr. Binod Kumar Singh, Advocate
For High Court	:	Mr. Samir Kumar, Advocate
For the State	:	Mr.Mrigendra Kumar, AC to GA-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-01-2019

Heard Sri Rajeev Roy, learned counsel for the petitioner, and Sri Samir Kumar, learned counsel appearing for the High Court holding brief of Sri Piyush Lal and Sri Mrigendra Kumar, learned counsel for the State of Bihar.

The challenge raised in this petition is to the refusal of the High Court to entertain the representation filed by the petitioner in respect of the discrepancies said to exist in the evaluation of Theory Paper-I of the main written examination of District Judge (Entry Level), Direct from Bar Exam-2016. The



contention raised is that the trend of awarding marks by the examiner in the answer book clearly indicates that the examiner had awarded higher marks, but while totalling the same, some interpolations have been made on the first page, as a result whereof, the marks of the petitioner as awarded have been substantially reduced and, even otherwise, the manner of marking also suffers from discrepancies. For this, it has been urged that if the marking of the evaluator and the marks awarded are carefully perused particularly with regard to question no.1(b), question no.10, question no.11, question no.14(a) and question no.22, then it would be apparent that the discrepancies clearly exist and the manner in which the marks have been awarded leave no room for doubt that it has been done casually. Apart from the evaluation being decrepit, the ultimate awarding of marks also suffers from an incorrect calculation.

On the said premise, learned counsel submits that if the discrepancies are clearly established, then the answer book requires a re-checking and re-evaluation.

The petitioner applied for the photostat copies of the answer book that was given to him, whereafter he filed his representation and the High Court on the administrative side on 11th July, 2018 resolved as follows :-



“The Committee considered the representations dated 24.05.2018, 08.06.2018 and letter dated 11.07.2018 of Sri Shashank Shekhar Sinha, Sri Daya Shankar Prasad Gupta and Sri Kumar Keshav respectively, the unsuccessful candidates of District Judge (Entry Level), Direct from Bar Exam-2016, praying therein for rechecking/scrutiny of their answer sheets. The Committee found that no answer is left unevaluated nor there is any variation in marks on re-totaling. Further, there is no provision of re-checking or re-evaluation of the answer-sheets and, thus, the representations aforestated are rejected”.

Not being satisfied, the appellant, after having obtained the photostat copies of the answer book, has filed this writ petition contending that the evaluation as well as the calculation of the answers by the examiner being deficient the relief prayed for deserves to be granted.

Learned counsel for the respondent-High Court and the State have urged that since re-checking and re-evaluation are not permissible under the rules, therefore, even otherwise, no such relief can be granted and apart from this a counter affidavit has been filed stating therein that the discrepancies as pointed out by the petitioner are not borne out from the record. It is urged that the contentions raised, therefore, fall beyond the pale of judicial



review under Article 226 of the Constitution of India and the writ petition does not deserve to be entertained.

A rejoinder affidavit to the counter has been filed rebutting the claim set up in the writ petition and contending that the counter affidavit does not disclose any valid reason even while rejecting the representation nor does it attend to the grievances as raised specifically on behalf of the petitioner, particularly with regard to the mode and manner of evaluation of the answers referred to hereinabove in Theory Paper-I of the 2016 examinations.

We have considered the submissions raised and we have also perused the photostat copy of the answer book that has been filed along with the writ petition. As against the questions that have been referred to by the petitioner, marks have been awarded. As against Answer No.10, the figure of 12 has been encircled below the answer but the same does not appear to be the marks awarded inasmuch as the question itself is of 7 marks. So far as Answer No.12 is concerned, 4 marks have been awarded.

In this view of the matter, if the marks are calculated as awarded, then there does not appear to be any discrepancy either in the totalling nor does there appear to be any discrepancy in the award of marks. Learned counsel has insisted that certain answers



bear the endorsement of a circle without any marks endorsed therein and, therefore, the same amounts to having not been evaluated. In our opinion, the aforesaid inference is incorrect, inasmuch as such as, the answers have been crossed and, it appears, zero marks have been awarded.

In the light of what has been concluded hereinabove, the discrepancies pointed out by the learned counsel for the petitioner do not appear to be borne out from the record and, consequently, the decision of the High Court to reject the representation of the petitioner also does not suffer any legal infirmity.

The writ petition lacks merit. The same is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Nasimul/K.C.Jha

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	11-01-2019
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