

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1642 of 2018

In
Civil Writ Jurisdiction Case No.20070 of 2018

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Ank Mitra son of Kaloo, Resident of Village- Tajpur, P.S.- Tajpur, District- Samstipur through his natural guardian, the father Sri Kaloo, S/O Ram Swarup Sah, Resident of Village- Tajpur, P.S.- Tajpur, District- Samstipur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
3. The Director, Higher Secondary, Human Resource Development Department, Govt. of Bihar, Patna.
4. The Chairman, Bihar School Examination Board, Patna.
5. The Secretary, Bihar School Examination Board, Patna.
6. The Examination Controller, High Secondary, B.S.E.B., Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Surendra Kr. Singh, Adv. Ms. Tulika Singh, Adv.
For BSEB	:	Mr. Lalit Kishore, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 14-02-2020

S.R. Defects no.1 to 4 dated 24.11.2018 are ignored and L.P.A. is heard on merits.

The impugned judgement/order dated 9.10.2018, passed by the learned Single Judge in C.W.J.C. No. 20070/2018, titled as Ank Mitra Vs. The State of Bihar & Ors., is reproduced in



toto hereinunder:

“Heard learned counsel for the parties.

2. The petitioner had participated in the matriculation examination held by the Bihar School Examination Board in 2018. He has been awarded 37 marks in mathematics and 59 marks in Social Science out of 100, whereas it is his claim that he should have been awarded at least 87 and 79 marks respectively in the said subjects.

3. The petitioner in that background, is seeking a direction to the Bihar School Examination Board to re-evaluate the answer-sheets of the petitioner of the said two subjects.

4. The petitioner had applied for scrutiny of his answer-sheets, where after the petitioner has been given one more marks in mathematics than what was initially awarded. In the other subjects, no change has been found.

5. The petitioner had applied for supply copies of his answer-sheets of the said two subjects under the Right to Information Act before the Board, which too, according to him, have not been supplied to him. There is no provision for re-evaluation of the answer-sheets under the extant Examination Regulations. The petitioner has not been able to make out an exceptional circumstances for this Court to issue a direction as being sought. If the petitioner has not been provided any information under the Right to Information Act as is being claimed, the petitioner has remedy of appeal before the appellate authority under the Right to Information Act.

5. The direction as being sought in the writ application, in the background of the above, cannot be issued in the facts and circumstances of the present case.

6. This application is, accordingly, dismissed.”



Learned advocate General invites our attention to Rule-20 of Chapter-V of the Bihar School Examination Board Regulation, 1964 which reads as under:

“**20. Scrutiny.** - (a) Candidates, who desire to get their answer book scrutinised may apply for the same within one month of date of publication of the Board's result. The application for scrutiny must be accompanied in such case by a fee of Rs. 5/- (Five) per paper, minimum Rs. 10/- (Ten) and maximum of Rs. 30/- (Thirty) only. No such application will be entertained unless the same forwarded by the Head of Institution from which the candidate appeared with a certificate to the effect that he is convinced that there is strong and sufficient ground for such scrutiny.

(b) Scrutiny will not imply re-examination of the answer-books of a candidate. It will merely be a check to ensure whether there has been any mistake in totalling the marks assigned to individual question or in carrying them over or any omission to mark a question or part thereof.

(c) The result of scrutiny will be communicated to the Head of Institution and the candidate concerned.

(d) The fee paid for scrutiny of answer books shall not be refunded.”

The Rules do not provide for supply of answer-sheet. As such, as per the settled law, there being no provision for re-evaluation of the answer-sheets, the Writ Court rightly did not allow the petitioner's prayer. Liberty already stands granted to the petitioner to obtain necessary information under the provisions of Right To Information Act which is the petitioner's prayer.

As such, no interference is warranted. The judgement cannot be said to perverse or illegal in any manner.



The appeal stands disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

K.C.Jha/-Pallavi/

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	17.02.2020
Transmission Date	N/A

