

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13777 of 2018

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1. Kumari Anupam Guriya and Anr D/o Shri Tapeswar Prasad Yadav, Wife of Shri Surendra Prasad Yadav, Resident of Village-Duaniya, P.S.-Pratapganj, District-Supaul.
 2. Punam Kumari D/o Shri Tapeswar Yadav, Wife of Jai Prakash Yadav, Resident of Village-Menha, P.O.-Khokhnaha, P.S.-Marauna, District-Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Bihar School Examination Board through its Chairman, Budha Marg, Patna.
5. The Chairman, Bihar School Examination, Budha Marg, Patna.
6. The Secretary, Bihar School Examination Board Budha Marg, Patna.
7. The Controller of Examination, Bihar State Examination Board, Budha Marg, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Amrit Abhijat, Adv.
For the Respondent/s	:	Mr. Umesh Narayan Dubey, AC to GP-27
for the Board	:	Mr. Manish Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 05-09-2022 This writ petition stands covered by the judgment passed by the co-ordinate Bench of this court in 2019 (3) PLJR Page 826, wherein it has been held:-

“30. Now, coming to the issue of the candidates whose candidature has been declared to be invalid on account of use of whitener / eraser etc., it is clear that the candidates were strictly instructed not to



overwrite or use whitener vide the aforesaid advertisement contained in communique no. 63 of 2017 wherein under column 4, it has been categorically provided that use of pen or eraser in the OMR Sheet, folding of OMR sheet, tearing or application of whitener on OMR Sheet are totally prohibited. Under column 5 of the said advertisement, the candidates had been cautioned to literally follow the said instructions and in case, the OMR sheets are not properly filled up then the same would be rejected by the computer resulting in invalidation of their result for which the candidate shall be solely responsible. This Court finds that since the candidates had been warned by issuing instructions by a communique contained in advertisement no. 63 of 2017 dated 13.7.2017, any disregard of the instructions contained therein is liable to result in invalidation of the candidature of such candidates using whitener, eraser, pin etc. In this regard, the judgment rendered by a coordinate Bench of this Court dated 22.12.2017 passed in CWJC No. 16359 of 2017 (Brajesh Kumar & Ors. vs. The State of Bihar & Ors.), as also the judgment rendered by the Hon'ble Apex Court in the case of A.V. Natrajan & Ors. (supra) fully covers the said issue, hence, the candidature of the writ petitioners who have used whitener, eraser, pin etc. have rightly been invalidated by the Respondent-Board since they have violated the instructions given to them



which in turn amounts to misconduct, hence such candidates are liable not to be selected. It would be unfair to the writ petitioners, if the judgment rendered by the Hon'ble Apex Court in the case of Hanuman Dutt Shukla & Others (supra), relied upon on their behalf by the learned counsels appearing for them, is not dealt with. This Court finds that the said judgment, rendered in the case of Hanuman Dutt Shukla & Others (supra), is of no help to the writ petitioners inasmuch as firstly, the said judgment was based upon a concession made by the State and secondly, the said judgment specifically states that the same will not be treated as a precedent for any other case, meaning thereby that the said judgment rendered by the Hon'ble Apex Court cannot be used as a precedence, hence, shall not bind this Court.”

In view of above, the writ petition is devoid of merit and is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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