

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19094 of 2018

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Anju Kumari Daughter of Chandeshwar Rai and Wife of Bidhan Chand,
Resident of Village- Harshpura, Police Station- Baniyapur, District- Saran at
Chapra.

... .. Petitioner/s

Versus

1. The Bihar School Examination Board
2. The Chairman, Bihar School Examination Board, Patna.
3. The Secretary, Bihar School Examination Board, Patna.
4. The Examination Controller, Bihar School Examination Board, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	None
For the Board	:	Mr. Satyabir Bharti, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 17-10-2022 Non one appears for the petitioner.

Counsel for the respondents states that the issue raised
in the present petition stands already adjudicated finally by this
Court in the judgment reported in **2019(3) PLJR, 826** (Ashoke
Krantti & Ors. Vrs. State of Bihar & Ors.) wherein in paragraphs
30 and 31 the Court held as under :

*“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 communiqué 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 communiqué 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.

31. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present batch of writ petitions, hence, all the writ petitions are dismissed.

Keeping in view above and the prayer made by the petitioner, this Court is satisfied that the judgment covers the present case and issue involved herein.

In view thereof, the writ petition is dismissed in aforesaid terms.

(Sanjeev Prakash Sharma, J)

Shamshad/-
Item No. 16

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