

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22884 of 2018

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Deomani S/o Jairam Yadav R/o Village- Rajpur Sarsandi, Police Station-
Gwalpara, District- Madhepura, PIN-852115

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Director, Secondary Education, Government of Bihar, Patna
3. Bihar School Examination Board, Patna through its Secretary
4. Chairman, Bihar School Examination Board, Patna
5. Secretary, Bihar School Examination Board, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gyanand Roy, Adv.
For the State : Mr. Nishant Kumar Jha, AC to SC -28

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

ORAL ORDER

2 15-11-2022

1. Heard the parties.

2. The petitioner has come before this Court assailing the action of the respondents Bihar School Examination Board, Patna in disqualifying him for the B.E.T.E.T. Exam, 2017.

3. Learned counsel for the petitioner submits that the petitioner had applied for subject of Hindi, Maithili, Mathematics and Science as optional subjects in the exam and he appeared in the subjects alone and filled O.M.R. sheet accordingly. Learned counsel submits that the petitioner has been disqualified on the ground that the subjects offered by him were Persian and Arabian language papers and Social Science as



optional subjects in place of Hindi, Maithili, Mathematics and Science. Learned counsel submits that the petitioner does not have any knowledge of subject of Persian and Arabic and there was no question of petitioner offering such subjects. The Admit Card however mentions the petitioner to be allowed to appear in subjects of Persian, Arabic as language papers and Social Science as optional subject, which was wrongful and the petitioner's original result should be declared having appeared in the subjects of Hindi, Maithili as language papers and Mathematics and Science as optional paper.

4. Reply has been filed by the respondents and it is stated that the order of rejecting the petitioner's application form and disqualifying him dated 21.06.2018 is on the basis that he has appeared and made changes in the application form at his own level since he had the User ID and Password in his possession.

5. This Court further notices that the petitioner had been issued an Admission Card for appearing in the subjects of Persian and Arabic language as well as for Social Science. He however did not challenge the said Admission Card at the appropriate stage and proceeded to appear in the examination and without permission appeared in the subjects of his original



option namely Hindi, Maithili, Social Science and Mathematics.

6. In the Opinion of this Court, the petitioner could not have at his own level without permission appear in subjects which were not mentioned in his Admission Card. The Admission Card for a particular exam grants the authority to a candidate to appear in the subjects mentioned therein. If students chooses to appear in some other subjects and later on claims that the result should be declared accordingly, it would amount to loosing the sanctity of the Admission Card and the exam itself. Since the petitioner never objected at the time of issuance of Admit Card of the subjects being wrongly mentioned therein, he can not subsequently turn around and claim that the subjects in which he has chosen to appear, should be treated as his optional subjects. Principle of approbate and reprobate would apply in such matters and the petitioner, therefore, would have no claim for the said purpose.

7. In M.C.D. Vrs. Surender Singh, 2019 (8) SCC 67, the Hon'ble Apex Court has held as under:-

“ 18. From a perusal of the said clause it is noticed that though under the very clause there are no cut-off marks specified. Clause 25 would, however, provide the full discretion to DSSSB to fix the minimum qualifying marks for selection. In the instant case, keeping in view that the recruitment was for the post of Assistant Teacher (Primary) and also taking note of the orders passed by the



High Court in an earlier petition requiring the maintenance of minimum standards. DSSSB while preparing the select list had stopped the selection at a point which was indicated as the cut-off percentage. In a circumstance where Clause 25 was depicted in Advertisement No. 1/2006, when the private respondents herein and the other petitioners before the High Court were responding to the said advertisement, if at all they had a grievance that the clause is arbitrary and might affect their right ultimately since no minimum marks that is to be obtained have been indicated therein, they were required to assail the same at that stage. On the other hand, despite being aware of the clause providing discretion to DSSSB to fix the Minimum qualifying marks, they have participated in the selection process by appearing for the qualifying examination without raising any protest. In that circumstance, the principle of approbate and reprobate would apply and the private respondents herein or any other candidate who participated in the process cannot be heard to complain in that regard.”

8. Keeping in view above, no relief can be granted to the petitioner. The writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 112

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