

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.403 of 2021
In
Civil Writ Jurisdiction Case No.803 of 2021

1. The Bihar School Examination Board, Patna through its Chairman, Patna.
 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.
- Respondents/Appellants

Versus

1. Md. Irfan S/o Md. Suleman Resident of Pirhauili, P.S.- Alinagar, District-Darbhangha.
- Petitioner/Respondent 1st Set
2. The Centre Superintendent, Lohia Charan Singh College, Darbhanga cum Head Master plus 2 Dev Narayan High School Panchov, Darbhanga.
 3. The Superintendent, Evaluation Centre, Shiva Nand Prasad Mandal High School, Madhepura.
- Respondents/Respondents 2nd Set

Appearance :

For the Appellant/s : Mr.Satyabir Bharti, Adv.
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 04-07-2022

Heard Mr. Satyabir Bharti, learned advocate for the appellants.

The interim order passed by the learned Single Judge dated 29.06.2021 in CWJC No. 803 of 2021 has been put to challenge on the sole ground that the Court has pre-supposed the complicity of the Bihar School Examination Board and the Controller of Examinations in the



tampering of the answer-sheet of one of the candidates who had approached this Court in writ petition challenging his expulsion from the examination.

It appears from the writ petition and the memo of appeal that when the answer-sheet of the writ petitioner was sent to a school for evaluation, it was found that but for the covering-sheet, other pages were found to have been exchanged from the copy of and/her candidate of previous year examination.

No categorical statement has been made as to when and where such tampering could have been done.

Was it at the time of handing over of the answer-sheet by the student at the end of the examination or when such examination paper was handed over and kept in the custody of the authorities of the Board, which ultimately was sent to another school for evaluation.

It is also not clear as to whether the Board or its agencies or for that matter the Examination Controller can be saddled with the charge of not keeping the records/answer-sheets of the students properly.

Be that as it may, on finding that the mathematics paper of the writ petitioner was found to have been tampered, the learned Single Judge was of the view that such tampering could not have been done only at the instance of the writ petitioner/student but the connivance of the other authorities as well.



Under the aforesaid circumstances, the learned Single Judge directed for an enquiry in the matter and issued a direction to the Additional Director General of Police, Cabinet Vigilance to register a case for corrupt practices and manipulation of answer-sheets. The preliminary enquiry was required to be completed and a report was to be submitted to the Court. Before the enquiry could be completed and any report could be submitted before the learned Single Judge, the Board has approached this Court for expunction of remarks made in the order dated 29.06.2021.

The second paragraph of the aforesaid order which offends the appellant is being extracted hereinbelow:-

“Under the aforesaid circumstances, the Court is of the considered view that such manipulation is not possible without the active connivance of the officials and employees of the Bihar School Examination Board, Patna and therefore deeper enquiry is required in the examination affairs of the Bihar School Examination Board.”

We are of the considered view that taking into account the circumstances of the case, the Court found that an enquiry was necessary to fix the responsibility on the wrong doers. By no logic, any part of paragraph no.2 of the order could be seen as castigation on the Board or the Controller of Examinations.



Be that as it may, the report which has been prepared has yet not seen the light of the day and the writ petition is pending adjudication before the learned Single Judge.

We, therefore, are of the considered view that no interference is required so far as the directions of the learned Single Judge is concerned but, we do clarify that the observation made in Para-2 of the order dated 29.06.2021 be not taken as a statement against the Board even before any report of the inquiry has been perused or any decision taken by the Court.

With the aforesaid observation, the appeal stands disposed of with a direction that this order be placed before the Hon'ble Single Judge before whom the case is listed.

Mr. Arvind Kumar, learned advocate for the Vigilance Department is present in the Court with a copy of the report in sealed cover. He shall file such report before the learned Single Judge who has to finally decide the issue.

The LPA stands disposed of accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2022
Transmission Date	

