

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1564 of 2019

In

Civil Writ Jurisdiction Case No.4997 of 2019

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Surendra Kumar Sharma Son of Sri Jageshwar Sharma, resident of Village-Samaura, Police Station- Kusheshwar Asthan, District- Darbhanga.

... .. Appellant/s

Versus

1. Bihar School Examination Board , Patna through its Chairman.
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.
5. The Principal Secretary, Primary Teachers Training College, Ghoghardiha, Madhubani.
6. The State of Bihar through the Director, Training and Research , Education Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Suraj Narain Yadav, Adv. Mr. Ranjit Kumar Yadav, Adv. Mrs. Rupam Kumari, Adv. Mrs. Rubi Kumari, Adv.
For the State	:	Rakesh Narain Singh
For the BSEB	:	Mr. Gyan Shankar, Adv.
For the Resp. No.5	:	Mr. Shashi Shekhar Tiwari, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 10-10-2022

Heard Mr. Suraj Narain Yadav for the appellant,

Mr. Rakesh Narain Singh for the State of Bihar and Mr. Gyan

Shankar for the Bihar School Examination Board and Mr.

Shashi Shekhar Tiwari for the present/serving Principal of

Primary Teachers Training College, Ghoghardiha, Madhubani.



The appellant has challenged the learned single Judge's order whereby in the writ petition filed by the appellant and his companion (writ petitioner no.2), a direction has been issued to the Controller of Examination (respondent no.5) to take the examination afresh of writ applicant no.2 only and not of the appellant (writ applicant no.1) on the ground that he had not filled up the form for writing the examination till the last extended date.

During the course of deliberations, it was found that the appellant had taken admission in session 2017-19 of D.EL.Ed. Course in the concerned college and was awarded roll no. 125. It was also found that because of mismanagement in the Training college in issuing admit cards, one person by the name of Chandra Shekhar Prasad (roll no. 244) was made to fill up the application form twice and because of a collusive action of the concerned authorities, another candidate, who was was not there in the roll, was also permitted to fill up the form and write the examination.



For ready reference, all the above noted facts which have been recorded by this Court on 19.07.2022 is being reproduced:-

"Heard Mr. Suraj Narayan Yadav, the learned Advocate for the appellant, Mr. Shashi Shekhar Tiwary, the learned counsel for the respondent No. 5/the Principal Secretary, Primary Teachers Training College, Ghoghardiha, Madhubani and Mr. Gyan Shankar, the learned counsel for the Bihar School Examination Board, Patna.

The State is represented by Mr. Prabhat Ranjan Singh, the learned A.C. to A.A.G.-13.

The appellant and another had approached this Court earlier vide a writ petition, seeking a direction to the respondents to allow them to sit in the examination of D.El.Ed., a two-years Teachers' Training Final Examination of 2019 and publish their results or else they would loose their jobs.

It may be noted that acquiring the Special D.El.Ed. Degree, on job, had become mandatory for continuing in the job of teaching.

The appellant and another writ applicant enrolled themselves as regular students in the Primary Teachers Training College, Ghoghardiha, Madhubani and successfully completed the course. The other companion of the appellant was not allowed to sit in the examination because his admit card was not downloaded for technical glitch/snag.



With respect to the appellant, the stand of the College was prevaricating. In the first instance, the appellant was not allowed to sit in the examination on the ground that he had not filled-up the form within time. Later, when the learned Single Judge probed into the matter, it was found that there was a technical snag with respect to the companion of the appellant, but the appellant had not filled-up the form within time.

The learned Single Judge therefore, making a distinction between the cases of the appellant and his companion, directed for a special examination to be held for the companion of the appellant, but rejected the claim of the appellant in totality.

In the present appeal, Mr. Suraj Narayan Yadav, the learned Advocate for the appellant has demonstrated that it was not brought to the notice of the learned Single Judge that the appellant had filled-up the form quite in time, which was certified by the Principal of the College. The Principal of the College was candid enough to even question the Controller of Examinations as to how the appellant was not made to sit in the examination, thereby making his appointment as a teacher susceptible to any precipitate action of removal or dismissal.

There does not appear to have been any communication between the concerned parties thereafter.

In the present appeal, the respondent No. 5/the Principal Secretary, Primary Teachers Training College, Ghoghardiha, Madhubani, who is a new



incumbent, has certified that the appellant had participated in the training course and had also filled-up his form well within time.

Mr. Yadav has been able to demonstrate that one of the candidates was made to fill-up the form twice and one another candidate, who was not even admitted in the roll of the College, was also permitted to sit in the examination. Precisely for that reason, allowing the appellant to participate in the examination would have caused further difficulty for the College in permitting more than the required strength of teachers to be trained, which number was prefixed by the Government as also by the Regulatory Body. Only 150 seats were made available to the concerned College for admitting corresponding requisite number of teachers.

Thus, this is a conundrum for the stakeholders to resolve.

We find no justification, in the above set of facts, to deny the same privilege to the appellant or else, he loses his job.

Apart from the fear of loosing his job, the appellant does not appear to be at fault.

The entire mess which has been created by the authorities, which we are not pinpointing at the moment, needs to be resolved. The solution has to come from the Government as well as the Bihar School Examination Board.

Mr. Prabhat Ranjan Singh, the learned counsel for the State has very adroitly gazed the situation and



has sought a short time for making this fact known to the Director, Training and Research, Education Department, Govt. of Bihar for suggesting a solution in the matter so that the appellant is not be left high and dry, without any fault on his part.

Re-notify this case on 02nd of August, 2022."

Pursuant to the aforesaid observations made by this Bench, the supplementary affidavit on behalf of the respondent nos. 1 to 4 has been filed. It has been stated in the affidavit that on recommendation from the Director, SCERT for taking action against one Arvind Kumar Yadav who, in connivance with the erstwhile principal of the Training College, had managed to fill up the examination form of the D.EL.Ed. Course for the academic Session 2017-18, aforesaid Aarvind Kumar Kumar has been noticed and his result has been cancelled.

The stand of the State has also been made clear by way of an affidavit at the instance of the respondent no.6, namely, the State of Bihar through the Director, Training and Research, Education Department, Government of Bihar, Patna wherein it has been clarified that because of wrong handling of the college affairs, one candidate namely, Chandeshwar



Prasad, as already noted above, was made to fill up the form twice whereas Arvind Kumar Yadav whose roll number was 230 was allowed to fill the examination despite his name not being entered in the enrollment register. The affidavit further clarifies that because of such fact not having been brought to the notice of the learned single Judge, a distinction was made between two of the writ applicants, providing succour to one and rendering the present appellant (writ applicant no.1) totally remediless. It has also been stated in the aforementioned affidavit that the appellant could not have been permitted/directed to write fresh examination as the approved number of students from a particular college to be trained is pre-fixed and if the result of Arvind Kumar Ydav would have been allowed to remain on record, the appellant would not form part of the 150 number of students who were permitted to take examination and get a training certificate.

With the cancellation of result of aforesaid Arvind Kumar Yadav, this difficulty now appears to have been removed. The B.S.E.B. according to Mr. Gyan, learned advocate appearing on its behalf is awaiting the direction of the



State namely the respondent no.6 for holding a separate examination of D.EL.Ed. for the appellant.

The tenor of affidavit by respondent no.6 is not only an admission of the mismanagement in the school for which necessary corrective measures have been taken but it also provides the solution for the difficulty which has arisen because of mismanagement in the school affairs.

We, therefore, partially modify the order of the learned single judge in directing the respondent no.6 that a special examination be held for the appellant also for which proper intimation shall be given to him within a period of thirty days. The entire exercise shall be concluded within a period of two months.

Should the appellant pass such an examination, necessary training certificate shall be issued to him without any delay and which certificate shall come to his aid so far as his service is concerned which requires on-job training within a particular time limit.



We, therefore, doubly clarify that for of the appellant not having written the examination on time, no adverse order shall be passed against him so far as the service is concerned.

The appeal stands allowed.

The order of the learned single Jude is modified accordingly.

(Ashutosh Kumar, J)

(Jitendra Kumar, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	17.10.2022
Transmission Date	

