

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2165 of 2023

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Sanjay Kumar, S/o Ram Chandra Yadav, Resident of Village- New Tarachak
(Kumar Palace), P.S.- Danapur, District- Patna (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of School Education and Literacy, 124-C, Shastri Bhawan, New Delhi.
2. The Additional Secretary (Institutions), Department of School Education and Literacy, 124-C, Shastri Bhawan, New Delhi.
3. The Joint Secretary (E.E.I.), Department of School Education and Literacy, 124-C, Shastri Bhawan, New Delhi.
4. The National Institute of Open Schooling, through Chairperson, A-24/25, Institutional Area, Sector- 62, Noida, District- Gautam Budh Nagar, Uttar Pradesh- 201309.
5. The Director (Evaluation), National Institute of Open Schooling, A-24/25, Institutional Area, Sector- 62, Noida, District- Gautam Budh Nagar, Uttar Pradesh- 201309.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Arun Kumar Singh, Advocate
		M. Dharmendra Kumar Singh, Advocate
For the UoI	:	Mr. Anshuman Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL JUDGMENT

Date : 17-02-2023

The petitioner appeared in the six months' bridge course examination conducted by the National Institute of Open Schooling (hereinafter referred to as "the NIOS") in March, 2019.



2. It is stated that while appearing in subject code No.523, the petitioner's original Answer Book was seized on the ground of cheating. However, the petitioner explained to the invigilator of having no connection with the said chit found near his table and he was issued another Answer Book on which he attempted the question paper and his results should have been declared. However, the respondent - NIOS cancelled the last examination in the subject mentioned and allowed him to appear in the next examination. The petitioner represented against the said decision whereafter a committee heard him and cancelled the entire examination.

Learned counsel submits that the decision taken by the respondents is unjustified and illegal. The petitioner ought to be allowed to appear in the next examination and if no examination is being conducted, the Answer Book which he has attempted should be evaluated and the results be declared as he has not done any cheating during the examination. Learned counsel has also invited attention to the marks obtained by the petitioner in the other subjects apart from subject code 523 which shows that he has scored good marks in all the subjects which are above 70.

I have considered the submissions, the petitioner is a



teacher who was required to do a bridge course to be eligible to be continued as a trained teacher with the Bihar Government. In the examination conducted by the NIOS, he was found cheating. Although the invigilator allowed the petitioner to attempt again by issuing in a fresh Answer Book as his original Answer Book had been forfeited. Based on the said facts initially the NIOS had decided to cancel his last examination in the subject mentioned and allowed him to appear in the next examination by issuing marksheet of other subject, but the petitioner was not satisfied and he filed an appeal before the unfair means committee of the NIOS which examined the case of the petitioner and reached to the conclusion of cancelling his entire examination. The decision taken by the unfair means committee is based on the entire submissions made by the petitioner.

4. This Court is not an appellate body and would not sit over or examine a decision of the unfair means committee. It is a settled principle of law that it is only the decision-making process that is a subject matter of judicial review and not the ultimate decision.

5. Keeping in view that the decision has been taken by the unfair means committee of cancelling the entire examination after following the process, no relief can be granted to the



petitioner.

6. The writ petition is misconceived and is, accordingly, dismissed.

(Sanjeev Prakash Sharma, J)

Ashwini/-
Item No.13

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.02.2023
Transmission Date	NA

