

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4374 of 2023

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Ramshreshth Paswan, son of Late Chulhai Paswan, Resident of Village-Sonai, P.S.-Khirhar, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Chairman, Bihar Sanskrit Shiksha Board, Anishabad, Patna.
3. The Director, Bihar Sanskrit Shiksha Board, Anishabad, Patna.
4. The Examination Controller, Bihar Sanskrit Shiksha Board, Anishabad, Patna.
5. The Head Master of Maithili Vidyapith Sanskrit Uchcha Vidyalya, Sankat Mochan Dham, Darbhanga, District- Darbhanga.
6. Vigilance Investigation Bureau, Department of Vigilance, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Birendra Kumar, Advocate
For the State	:	Mr.Prabhakar Jha, GP-27
		Mr. Umesh Narayan Dubey, AC to GP-27
For the B.S.S.B.	:	Mr. S.S. Sundaram, Advocate
		Mr. Shashank Shekhar Jha, Advocate
		Mr. Sanjay Kumar, Advocate
For the Vigilance	:	Mr. Anil Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

10 31-08-2023

Heard learned counsel for the parties.

2. This writ application has been filed seeking a writ in the nature of mandamus commanding the respondent Bihar Sanskrit Shiksha Board (hereinafter referred to as the ‘Board’) and its authorities to correct the date of birth of the petitioner in the original certificate of Madhyama which, according to the petitioner, wrongly mentions his date of birth as 12.08.1978 instead of 11.12.1968.



3. It is the case of the petitioner that he was studying in Maithili Vidya Pith Sanskrit Uchcha Vidyalaya Sankat Mochan Dham, Darbhanga and had appeared in the Madhyama Examination in the year 1983 and got second class in the Madhyama Examination.

4. It is stated that the petitioner visited the school concerned for original certificate of Madhyama Examination and the school has given him the original certificate in which the date of birth has been mentioned as 11.12.1968. A copy of the said certificate which the petitioner claims to have been issued by the school is Annexure- '2' to the writ application. It is further stated that on the basis of the said certificate the petitioner took admission in Intermediate class and after passing the Intermediate he completed his Bachelor from Lalit Narayan Mithila University in the year 1990. He also did his Post-graduation in the year 2014 and it is his specific statement that till that day he was not aware of his incorrect date of birth.

5. It is stated in the writ application that the petitioner had wrongly mentioned his date of birth in the admit card of Madhyama Examination as 22.08.1968 but in the original certificate the date of birth has been mentioned as 22.12.1968, the petitioner applied for the second copy of original certificate



in which date of birth has been mentioned as 22.08.1987. He, therefore, claims that it is not possible that a five years old person would appear in the Madhyama Examination which itself shows that there is some mistake on the part of the petitioner as well as on the part of Board. He claims that his date of birth be corrected as 11.12.1968.

6. In this case a counter affidavit and two supplementary counter affidavits have been filed on behalf of the Board and its authorities. In the counter affidavit, the stand of the Board is that “From enquiry and perusal of G.T.R. and R.T.R. of the Board, it is found that the petitioner’s date of birth is mentioned as 22.08.1978.”

7. Thereafter the respondents admits that there is a mistake because the petitioner had appeared in the year of 1983 Madhyama Examination. It is further stand of the respondents that the original certificate of Madhyama Examination issued by the Board on 8th May, 1990 (Annexure- ‘2’ to the writ application), however, on perusal of the same it is evidently clear that the petitioner has interpolated the said certificate and by overwriting the date of birth has been created as 11.12.1968 for the reason best known to the petitioner.

8. It is further stand of the Board that the petitioner



had got original certificate in the year 1990 but he did not approach the Board for correction with admit card/registration slip or any other valid document. It is, according to the respondents, a questionable act of the petitioner. He has filed this case after passage of 33 years from the issuance of original certificate and four years after issuance of duplicate certificate on 24.07.2019 wherein the date of birth of the petitioner has been rightly mentioned as 22.08.1978 on the basis of GTR.

9. Having taken the aforementioned stand, the respondents submitted that if the petitioner comes forward before the answering respondents for rectification of his date of birth in the Madhyama Examination with sufficient evidence/documentary proof then the answering respondent is duty bound to rectify his date of birth.

10. This Court vide its order dated 20.06.2023, having sensed some foul play in issuance of the certificate of Madhyama Examination to the petitioner by the Board's authorities and on finding that there were two Madhyama Certificates containing two different date of birth of the petitioner, directed the Secretary of the Board to appear in person with all relevant materials/registers to show his bonafides.



11. On 27.06.2023, this Court took note of the stand of the Secretary of the Board who made a statement that the date of birth shown in the certificate has been interpolated and a false date of birth which is not as per records of the Board has been introduced by overwriting. He was, however, unable to answer as to how the petitioner whose date of birth as per the records of the Board is 22.08.1978 could have appeared in the Madhyama Examination of the year 1983. At this stage, this Court directed to add the Vigilance Investigation Bureau, Department of Vigilance, Government of Bihar as party respondent no.6 and to serve copy of this writ application on the learned Standing Counsel for the Vigilance Department. The Secretary of the Board made a statement that he will find out some of the records in order to inform this Court as to the basis on which the date of birth of the petitioner was entered in the records of the Board. He was given liberty to do so and come back to the Court with the records.

12. Thereafter, on the request of the Board, this Court adjourned the matter on 10.07.2023 for filing supplementary counter affidavit. On 11.07.2023, the petitioner was called upon to explain as to how he got admission in Intermediate class in the year 1984 when the certificate (Annexure- '2') was issued



by the Board in the year 1990. The Secretary of the Board was also directed to file an affidavit after making proper inquiry about the existence of the school in question because the stand of the petitioner was, at this stage, that the school is not in existence.

13. On 20.07.2023, once again time was granted to the Board to file an affidavit in response to the query made by this Court. A second supplementary counter affidavit has been filed and in paragraph '12' of the said affidavit it is stated that the school in question from which the petitioner is said to have appeared in the Madhyama Examination is not in existence. The Board, however, endeavour to place on record an affidavit with some photocopies of the documents which includes a copy of the attendance-sheet of the month of January, 1983 but the photocopies enclosed with the affidavit were neither authenticated nor there was any statement in the affidavit as to who maintained the same. At this stage, a new revelation took place as this Court was informed that the school in question was a proposed school.

14. As soon as this Court was informed that the school in question was a proposed school and the answering respondents made a statement that the Board was permitting the



proposed schools to make their students appear in the Board Examination and this was permissible at the relevant time, however, now the Board does not allow the students of the proposed school to appear in the Board Examination, this Court called upon the answering respondents to come prepared with the relevant rules and decision of the Board of the contemporary period by virtue of which the students of the proposed school was allowed to appear in the Board Examination.

15. Despite opportunity granted to the answering respondents, nothing has been placed before this Court to show that the school in question was a proposed school and that the Board was competent to allow a student from so-called proposed school to take Madhayama Examination.

Consideration

16. In the given kind of disputed facts of the case and the materials on record as discussed hereinabove, this Court is of the considered opinion that the direction as prayed for in the writ application cannot be issued in exercise of the discretionary jurisdiction of this Court under Article 226 of the Constitution of India. In fact, this Court, while sitting as a Constitutional Court, has noticed that the Board has completely failed to place any material to demonstrate as to how the petitioner who is said



to be a student from the so-called proposed school was allowed to appear in Madhyama Examination in the year 1983, certificate of which is said to have been issued to the petitioner in the year 1990. Further, it is not known as to how the petitioner got himself admitted in the Intermediate Class in the year 1984 and then for Bachelor Degree mentioning a wrong date of birth and without the Madhyama certificate.

17. Annexure- '2' to the writ application which has been brought on record by the petitioner apparently contains interpolation with respect to the date of birth and the date of issuance of the certificate is 8th May, 1990 but the petitioner did his Intermediate in the year 1987 itself and he claims that his date of birth in the Intermediate class was 11.12.1968, according to him, in the admit card of Madhyama Examination his date of birth was 22.08.1968 but in the original certificate the date of birth has been mentioned as 22.12.1968. There are allegations of interpolation by the petitioner and for the reason that the Board is unable to demonstrate even prima-facie that the Board was competent to admit the petitioner for the Madhayama Examination, 1983 from a so-called proposed school and in course of hearing of the writ application it has transpired that the Board has been issuing such certificates to a large number of



persons in the name of their having passed Madhyama Examination from a proposed school which may not be found in existence, in the given circumstance, this Court is of the considered opinion that this issue is required to be duly investigated by a competent agency of the Government.

18. This Court, therefore, directs the Department of Vigilance, Government of Bihar (respondent no. 6) to conduct an enquiry in the nature of preliminary enquiry within a period of three weeks from today and in case it is found that the matter is required to be investigated after lodging of a First Information Report, the same be done within four weeks from today and submit an action taken report to this Court.

19. At the same time, the Department of Education, Government of Bihar shall take any other remedial measures which may be required to ensure transparency in the affairs of the Board in accordance with law.

20. The department as well as the Board shall fully co-operate with the Vigilance.

20. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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