

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.168 of 2022

In
Civil Writ Jurisdiction Case No.3156 of 2022

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Manbodh Kumar, Son of Maheshwari Prasad Yadav, Resident of Village -
Gamhariya, Ward No 7, Turkahi, P.S.- Madhepura, District - Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Director, Primary Education, Department of Education, Govt. of Bihar, Patna.
3. The Regional Director, Purnia Division, Department of Education, Govt. of Bihar, Purnia.
4. The Bihar School Examination Board, through the Secretary, Fraser Road, Patna.
5. The Chairman, Bihar School Examination Board, Fraser Road, Patna.
6. The Controller of Examination (Misc.), Bihar School Examination Board, Patna.
7. The Vigilance Officer, Bihar School Examination Board, Fraser Road, Patna.
8. The Deputy Secretary (Vigilance), Bihar School Examination Board, Fraser Road, Patna.
9. The District Magistrate, District - Purnia.
10. The District Education Officer, District - Purnia.
11. The Block Education Officer, Block - Banmankhi, District- Purnia.
12. The Executive Office, Nagar Panchayat, Banmankhi, Block- Banmankhi, District - Purnia now Municipal Council, Banmankhi, Block - Banmankhi, District - Purnia.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajit Kumar Ojha, Advocate
For the Respondent/s : Mr. Ajay Kumar Rastogi, AAG-10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 27-06-2023

1. Heard learned counsel for the appellant and learned
counsel for the respondents.



2. The instant appeal has been preferred against the order dated 9.3.2022 passed in C.W.J.C no. 3156 of 2022.

3. The case of the appellant in brief is that having passed his matriculation and intermediate examinations in the year 2006 and 2008 respectively, the appellant appeared in the Bihar Elementary Teachers Eligibility Test, 2011, conducted by the Bihar School Examination Board in the year 2011. His roll no. was 2002118021. He qualified with 90 per cent marks, however he was taken by surprise when he found that in the result, in place of his name, the name of one Anil Kumar was mentioned. On the application filed by the appellant, as per his case, his result was rectified and the rectified result showing his name was provided to him.

4. It is further case of the appellant that on being called for counseling for appointment on the post of Nagar Panchayat Teacher, the appellant produced the original copy of the rectified result. He was appointed on the post of Nagar Panchayat Teacher, joint primary school and started discharging his duties. Subsequently, a show cause notice was issued to him on 11.9.2014 by the Executive Officer, Nagar Panchayat, Banmankhi ('Executive Officer, Nagar Panchayat' in short) to which the appellant submitted his reply on 18.9.2014. Without



taking into consideration that the appellant had been provided with a rectified result, by order dated 3.12.2014 the Executive Officer, Nagar Panchayat cancelled the services of the appellant and directed him to handover the charge.

5. It is the case of appellant that thereafter, he filed an application before the District Magistrate, Purnia on whose direction a further inquiry was conducted by the Executive Officer, Nagar Panchayat. The Executive Officer, Nagar Panchayat wrote to the Vigilance Officer of the Bihar School Examination Board ('the Board' in short) and on receipt of the report from the Board, the Executive Officer, Nagar Panchayat once again issued a show cause notice dated 9.2.2019 to the appellant who submitted his reply to the same on 14.2.2019.

6. By order contained in Memo no.1116 dated 22.2.2019, the Executive Officer, Nagar Panchayat terminated the service of the appellant.

7. The order of termination was challenged by the appellant by filing Appeal Case no.14 of 2019 before the District Teacher Appellate Authority, Purnia where the appeal was dismissed and the order of termination was affirmed by the order dated 10.12.2020 passed by the Authority.

8. The appellant preferred an appeal before the State



Appellate Authority, Bihar which was registered as Appeal no.19 of 2021 which was also dismissed by order dated 6.12.2021. It is in view of the above facts that the writ application (CWJC no. 3156 of 2022) was filed by the appellant praying therein to quash the order of termination dated 22.2.2019, the order dated 10.12.2020 passed by the District Teachers Appellate Authority, Purnia and the order dated 6.12.2021 passed by the State Teachers Appellate Authority, Patna.

9. Counter affidavits were filed on behalf of the District Education Officer, Purnia, the Executive Officer, Nagar Panchayat, Banmankhi as also on behalf of the Bihar School Examination Board.

10. By order dated 9.3.2022, the learned Single Judge, taking into consideration the material on record and the submissions made, was of the opinion that as to whether the certificate possessed by the appellant is genuine or forged is a question of fact which required to be adjudicated and examined by the Civil Court. Accordingly, the learned Single Judge dismissed the writ petition giving direction that in case the appellant file a civil suit, the Civil Court shall take steps for expeditious disposal of the suit.



11. Having heard learned counsel for the parties and having perused the material on record, it transpires that the appellant has been terminated from service as a Nagar Panchayat teacher on account of his marksheet/certificate relating to Bihar Elementary Teachers Eligibility Test, 2011, having been issued by the Bihar School Examination Board being found to be forged. The case of the appellant was that the rectified marksheet/certificate was issued by the Board in his name.

12. A counter affidavit has been filed on behalf of the Board in the instant appeal. Paragraph nos. 13, 14, 15, 16, 17 and 18 of the same are quoted herein below for ready reference:-

“13. That it is further submitted that the further communication for verification of appellant's Certificate had also been made by the D.P.O, Purnia vide letter no. 806 dated 15-11-2018 which had also been responded by the vigilance Officer, of the Board vide letter no.5593 dated 27-12-2018.

14. That it is further submitted that it was during the said course of verification that it has been found that against Roll NO.2002118021, name of one Anil Kumar, S/o Maheshbari Yadav, Category -BC, Male, Paper-I Marks- 090 Result- Q, Paper -II marks- 106, Result-Q, result Card no. -057098 stood entered in the records. It needs to be clarified that in the records of the Board, name of the appellant did not stood entered against Roll no. 2002118021.



15. That further in so far as the statement made in para 11 of the memo of appeal under reply with regard to the so called letter no. 1122 dated 24-01-2015, it is respectfully submitted that on verification made at the Board, the above said so called letter had not been found to be issued by the Board.

16. That it also needs before this Hon'ble Court that during verification from perusal of the records it has also been surfaced, that letter bearing no.2637 dated 06-12-2018, 587 dated 28-02-2019 and 7577 dated 31-12-2019 had not been issued by the Board which it had wrongly been claimed by the appellant to have been issued by the Board).

17. That in the aforesaid factual backdrop, insofar as the Board is concerned it needs to be clarified that it was light in of the communication made by the Executive officer of the concerned as the employment unit as well by the District level authority, that the appellant's BETET 2011, result had been verified from the records available at the Board and accordingly it was after verifying the entries made in the records. That on the said basis, it had been reported to the concerned ones and other than this no any other exercise, insofar as the appellant's case is concerned was done at the Board.

It also needs to be clarified that letter No 2637 dt 06.12.2018, 587 dt 28.02.2019 and 7577 dt 31.12.2019 through which the appellant's claims that necessary correction had been, made is simply fake and misleading as no letter no 2637 dt 06.12.2018, 587 dt 28.02.2019 and 7577 dt 31.12.2019 was issued by the Board.



18. That therefore, in the facts and circumstances stated here in above, it is clear that appellant has not before this Hon'ble Court with clean hands as it is clear that appellant has used forged and fabricated certificate of BETET-2011 Examination for getting employment.”

13. In the opinion of this Court, there being serious dispute between the appellant and the respondents including the Bihar School Examination Board on the genuineness of the marksheet/certificate used by the appellant at the time of his appointment as a Nagar Panchayat teacher, the learned Single Judge rightly decided that the question whether the said document is genuine or forged is a question of fact which required to be adjudicated and examined by the Civil Court.

14. This Court finds no merit in the instant appeal and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
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