

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.290 of 2021

In

Civil Writ Jurisdiction Case No.7303 of 2020

Abdul Quddus Son of Md. Siddique Resident of Karhobna, Post Office-
Chakai Hat, Police Station- Jokihat, District- Araria, Pin- 854329.

... .. Appellant/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Bihar School Examination Board Budh Marg, Fraser Road, Patna, Bihar, Pin- 800001, through its Chairman.
3. The Secretary Bihar School Examination Board, Budh Marg, Fraser Road Area, Patna, Bihar, Pin- 800001.
4. The Controller of Examination Bihar School Examination Board, Budh Marg, Fraser Road Area, Patna, Bihar, Pin- 800001.
5. The Enquiry Committee headed by Mr. Neel Kamal Chief Vigilance Officer, Bihar School Examination Board, Budh Marg, Fraser Road Area, Patna, Bihar, Pin- 800001.
6. Md. Ishtiyaque Alam, Son of Md. Kabir Uddin R/o Singar Mohani Tola, Ajhwa Ward No. -11, P.O. and P.S.- Jokihat, District- Araria, Pin- 854329.
7. Md. Badrul Islam, Son of Md. Abdul Kalam R/o Tharu Hat, P.O.- Budhnagra, P.S.- Bokhra, District- Sitamarhi, Pin- 843318.
8. Md. Arshad Ali, S/o- Md. Islamul Haque Shah R/o -78, Andharathadi, ward No. 04, District- Madhubani.
9. Md. Hamid Raza Khan, Son of Md. Ahmad Hussain Khan R/o Village- Chakwa, Ward No. 12, Post- Bairganja, Marpa Tahir, District- Sitamarhi, Pin- 843313.
10. Basheer Ahmad, Son of Abdul Ahmad R/o Village- Saidpur, P.O.- Parsa, P/S- Dariyapur, District- Saran, Pin- 841219.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Siyaram Pandey, Adv.
For the B.S.E.B. : Mr. Gyan Shankar, Adv.
For the State : Mr. Vinay Kumar Mishra, AC to AAG-15

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI

and

HONOURABLE MR. JUSTICE RUDRA PRAKASH

MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

Date : 15-12-2023

The present appeal has been filed by the appellant



against the order dated 08.03.2021 passed by the learned Single Judge in C.W.J.C. No. 7303 of 2020.

2. Heard Mr. Siyaram Pandey, learned counsel for the appellant, Mr. Gyan Shankar, learned counsel for the Bihar School Examination Board and Mr. Vinay Kumar Mishra, learned AC to AAG-15 for the State.

3. Learned counsel for the appellant submits that the Bihar School Examination Board (for brevity "B.S.E.B.") decided to conduct examination of Secondary Teachers Eligibility Test, 2019. The appellant/writ petitioner filled up the form for the said examination for the subject of Urdu. It is submitted that the B.S.E.B. had taken the decision for cancellation of the Secondary Teachers Eligibility Test Examination on account of use of unfair means. The appellant/writ petitioner, therefore, challenged the said decision by filling the writ petition before this Court.

4. It is submitted that the learned Single Judge vide the impugned order dismissed the said writ petition and, therefore, the appellant has preferred the present appeal.

5. Learned counsel for the appellant would mainly submit that the allegation with regard to use of unfair means adopted by the concerned persons was noticed at A.N. College,



Patna Centre and not at other places and, that too, the same was not with regard to Urdu subject despite which the B.S.E.B. took the decision to cancel the entire examination of Secondary Teachers Eligibility Test, 2019 which is not in accordance with law and, therefore, the learned Single Judge ought to have allowed the writ petition filed by the original writ petitioners including the present appellant and, thereby, the learned Single Judge ought to have given direction to the concerned respondent authorities to complete the selection process immediately. Learned counsel, therefore, urges that this appeal be allowed.

6. On the other hand, Mr. Gyan Shankar, learned counsel for the B.S.E.B., submits that the present appeal has become infructuous in view of the development which has taken place after filing of the petition. It is pointed out that the Respondent/Board has already conducted Secondary Teachers Eligibility Test in between 09.09.2020 to 21.09.2020 and, thereafter, the result of such examination was published on 12.03.2021. However, the appellant did not appear in the said examination. Thus, when the Respondent/Board has already conducted the examination, the cause does not survive and, therefore, only on this ground, the present appeal be dismissed.



7. We have heard the submissions canvassed by the learned counsel for the parties. We also perused the materials placed on record. It would emerge from the record that it is the case of the appellant that he had submitted the application form pursuant to the advertisement issued by the Respondent/Board for Secondary Teachers Eligibility Test, 2019. The appellant filled up the said form for Urdu subject. It would further emerge that the Respondent/Board took all steps to ensure fair examination such as prohibition of carrying mobile phones and electronic devices, using bio-metric attendance for preventing impersonation and use of jammers for preventing any kind of communication or copying at all the centres. However, it was noticed that at A.N. College, Patna Centre, there was a rumor that question papers were leaked prior to commencement of the examination and the same was circulated through whatsapp. Once such type of information was received by the Board, it transpires that the Respondent/Board took the decision to cancel the entire examination so that immediately the fresh examination can be conducted for all the subjects including the Urdu.

8. It is not in dispute that at A.N. College, Patna Center, the examination of all the subjects including Urdu was



required to be conducted. Thus, when the Respondent/Board once received the information that question papers got leaked prior to the examination and it is circulated through whatsapp, the Respondent/Board was justified in cancelling the entire examination including the Urdu subject.

9. It was difficult for the Board to bifurcate the subjects and to take examination for one subject and to cancel for another subject.

10. Even the relief prayed for in the original writ petition is examined it would reveal that the original writ petitioners have prayed for quashing and setting aside the decision dated 16.05.2020 taken by the Respondent/Board and it is further prayed the Respondent Authority be directed to complete the selection process by evaluating the O.M.R. Sheets and publish the result of the petitioners and other candidates.

11. At this stage, it is pertinent to note herein that the decision to cancel the examination was taken because of the leakage of the papers and, therefore, we are of the view that such decision cannot be interfered with.

12. However, it is also relevant to note that after cancellation of the Examination of 2019, the Respondent/Board has already conducted the fresh examination in September,



2020 and the result of the same has also been declared in March, 2021. The said aspect of the matter is not disputed by the learned counsel appearing for the appellant.

13. Thus, when the Respondent/Board has already conducted the fresh examination and the result whereof has been already declared pursuant to which the meritorious candidates have been selected, no relief can be granted to the appellant in the present appeal. Even otherwise, we have also gone through the reasonings recorded by the learned Single Judge and we are of the view that no error has been committed by the learned Single Judge and, therefore, no interference is required in the present appeal.

14. Accordingly, this appeal is dismissed.

(Vipul M. Pancholi, J)

(Rudra Prakash Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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