

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12582 of 2021

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Shambhu Sharan Mandal S/o Sri Murli Manohar Mandal, Resident of
Mohalla-South Bhatta Durgabari Bengali Tola Purnea, P.O.-Bhatta Bazar,
P.S.k-Hat, District-Purnea.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
3. The Director, Secondary Education, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
4. The Assistant Director, Education Department, Government of Bihar, New Secretariat, Vikash Bhawan, Patna.
5. The Chairman, Bihar School Examination Board, Patna-17.
6. The Secretary, Bihar School Examination Board, Patna-17.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Surendra Mishra, Advocate
For the State	:	Mr.Prabhakar Jha (GP-27)
For the BSEB	:	Mr.Ajay Behari Sinha, Sr. Advocate
		Mr. Upendra Kumar Singh, Advocate
		Ms.Seema Ghazala, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 11-07-2023 Heard Mr. Surendra Mishra, learned counsel for the

petitioner and Mr. Ajay Behari Sinha, learned senior counsel

assisted by Mr. Upendra Kumar Singh, learned Advocate for the

Bihar School Examination Board (hereinafter referred to as the

‘Board’) as also Mr. Prabhakar Jha, learned GP-27 for the State.

This writ application has been filed seeking the

following reliefs:-

“(i) For direction upon the respondent
authorities concern to relax and condone .5



marks for the petitioner of his total marks obtained in the 2nd paper of Secondary Teacher Eligibility Test (STET) for qualifying in the STET written examination held on 18.09.2020 as the petitioner in the 2nd paper of STET written examination has obtained 67.4497 marks where as 67.5 marks is required though in the previous STET and TET examination .5 marks was being relaxed and condoned for qualifying in the written examination for appointment as trained teacher but in the present STET examination without there being any valid reason condonation and relaxation of .5 marks has been abolished as a result large number of trained candidates including the petitioner have been deprived of his legal and constitutional right of equal opportunity hence interference of this Hon'ble Court is essentially required.

(ii) For direction upon the respondents authorities to consider the case of the petitioner for his appointment as trained teacher after relaxing and condoning .5 marks for which the petitioner has applied pursuant to the advertisement.

(iii) For direction upon the respondents to grant any such other relief or reliefs for which the petitioner is found legally entitled in the facts and circumstances of the case.”

Learned counsel for the petitioner submits that the petitioner had appeared in the re-examination of Secondary



Teacher Eligibility Test (in short 'STET') held by Board from 9th September to 21st September, 2020. The petitioner obtained 61.4958 marks in the 1st Paper of English but in 2nd Paper, he obtained 67.4497 marks. Ultimately, the petitioner has been declared as not qualified.

It is submitted that to qualify the test the petitioner was required to obtain 67.50 marks in the 2nd Paper. It is further submitted that in the Bihar Teacher Eligibility Test held in the year 2011 for the candidates of OBC, EBC, SC, ST and Physically handicapped, the Board had relaxed 0.5 marks and as against the requirement of 82.5 marks, those who had obtained 82 marks were declared as qualified in the Examination. Similarly, in 2017 Examination held by the Board for the reserved category candidates, 0.5 marks was relaxed and the candidates who had obtained 82 out of 150 marks were declared qualified.

Learned counsel submits that the petitioner had approached the authorities concerned and had submitted his representation seeking a similar grace mark which will put him in the category of qualified candidates but his representation has not been considered.

By filing an interlocutory application being I.A. No. 1



of 2022 some more reliefs have been prayed for. It is prayed that the respondent authorities be directed to declare the petitioner as qualified candidate in the STET Examination, 2019 as the petitioner has given 71 correct answers in the English Paper II Examination but has been awarded only 67.4497 marks. He has also prayed for rounding off the marks of the petitioner from 67.4497 marks to 67.5 marks. He has relied upon an information obtained under the Right to Information Act as contained in Annexure '10'. It is submitted that on going through the response received under the RTI, it is evident that out of 150 questions, the petitioner has given 71 correct answers, hence, he would be entitled for 71 marks.

On behalf of the Board, a counter affidavit has been filed. The stand of the Board is that in the online examination held by the Board, the result was processed keeping in view the ratio laid down by the Hon'ble High Court in LPA No. 1287 of 2015. In the prorated score, wrong questions are deleted and the full marks remains for the balance questions. Prorated score is determined by multiplying total question into marks obtained by candidates after dividing by actual number of questions (Actual number of question = total number of question- wrong questions). It is further submitted that the petitioner had



appeared in English Paper I and Paper II Examination. The result of Paper II was declared on the basis of *pro rata* score. The petitioner in Paper II obtained only 67 marks and the *pro rata* marks modified score to 67.4497 i.e. 44.9665%, therefore, he could not achieve the required minimum 45% fixed for qualifying the test and because of this deficiency, the Board could not qualify him.

It is the further stand of the Board that there is no provision to relax the minimum required percentage in such circumstance, therefore, the prayer of the petitioner to waive off the short margin and declare him qualified cannot be entertained.

Having heard learned counsel for the petitioner and learned senior counsel for the Board as also on perusal of the records, this Court finds that the respondent- Board has taken a categorical stand that the petitioner has obtained less than 45% marks, therefore, he has not been declared qualified. The grievance of the petitioner with reference to the grace marks allowed in some of the examinations would not be a ground for him to take a plea that this Court may issue a Writ of Mandamus directing the respondents to continue with such policy of awarding grace marks.



In the opinion of this Court, it is in the domain of the Institution/ Board only to take such policy decisions depending upon the circumstances which in their opinion demand such decision. So far as this Court is concerned, since the petitioner has failed to demonstrate that he has any legal right under which the respondent may be forced to award a grace mark, this Court would refrain from issuing a Writ of Mandamus.

This writ application as well as the interlocutory application are, thus, dismissed.

(Rajeev Ranjan Prasad, J)

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