

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9064 of 2015

Manish Kumar, Son of Sri Alakhdeo Das, Resident of village- Mohanpur,
Block- Mohanpur, P.S.- Patori, District- samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Secretary, Education Department, Govt of Bihar, Patna.
3. The District Programme Officer (Estb.), Samastipur.
4. The Bihar School Examination Board, Patna through its Secretary.
5. The Secretary, Bihar School Examination Board, Patna
6. The Dy. Secretary, Bihar School Examination Board, Patna.
7. The Block Education Officer, Mohanpur, Samastipur.
8. The Mukhiya , Gram Panchayat Raj Mohanpur, District- Samatipur.
9. The Panchayat Secretary, Gram Panchayat Raj , Mohanpur, District- Samastipur.
10. The District Teachers Employment Appellate Appellate Authority, Samastipur Through its Chairman.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Pd., Sr. Advocate Mr. Alok Kr., Advocate Mr. Pramod Kr., Advocate
For the State	:	Mr. Anuj Kumar, AC to SC-12
For the B.S.E.B.	:	None

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 14-12-2023

1. Heard learned counsel for the petitioner and learned
counsel for the State of Bihar. No one appears for the Bihar
School Examination Board.

Re. I. A. no. 9605 of 2015



2. Having heard learned counsel for the parties, the prayer made in the application is allowed.

3. The relief portion as stated in paragraph no.1 of the writ application is permitted to be amended by adding the prayer made by the petitioner in paragraph no.1 of the instant interlocutory application.

4. I. A. no. 9605 of 2015 stands allowed.

Re. CWJC no. 9064 of 2015

5. The petitioner has filed the instant writ application challenging the press communique bearing Advertisement no. 10/2015 as published on 8.3.2015 in the daily newspaper '*Dainik Jagran*' by the respondent- Bihar School Examination Board ('the Board' in short) whereby and whereunder the marksheet as well as the original certificate of the petitioner was held to be illegal and the same was cancelled with a further direction to the concerned District Education Officer to lodge a criminal case against him.

6. During pendency of this application, the Block Development Officer having come out with a letter contained in memo no.577 dated 23.7.2015 setting aside the petitioner's appointment as Panchayat Teacher, the petitioner by filing an interlocutory application (I. A. no.9605 of 2015) prayed for an



additional relief to quash the said letter/order dated 23.7.2015.

The said prayer in the interlocutory application has been allowed as stated herein above.

7. The relevant facts in brief are that the petitioner was appointed as a Panchayat Shiksha Mitra on 10.4.2003. On 1.7.2006, by operation of law, he became a Panchayat Teacher.

8. A complaint was filed on 9.9.2008 by one Mukesh Kumar Ram (herein after referred to as the complainant). The respondent-Board came out with a press communique bearing Advertisement no. 10/2015 as contained in Annexure-1 on 8.3.2015 cancelling the marksheet as well as the original certificate of the petitioner and thus the instant writ application.

9. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case at the instance of the complainant because of differences between them as the wives of both the petitioner as also the said complainant were applicants for being appointed as Panchayat Teachers. It is submitted that Vijay Kumar Ram is not the alias name of the petitioner herein namely Manish Kumar but in fact the said Vijay Kumar Ram was the elder brother of the petitioner which would be evident from the letter dated 8.1.2014 (Annexure-13) written by the Circle Officer, Mohanpur to the Secretary of the



Board. Further, unfortunately the elder brother of the petitioner namely Vijay Kumar Ram died on 25.12.2002 and his death certificate has been brought on record as Annexure-2 to this application.

10. In response, as would be evident from the counter affidavit of the Bihar School Examination Board, on the complaint having been received by the Board, the matter was got inquired into. The counter affidavit gives details of the communications made by the Board addressed to the District Education Officer, reminders sent to him as also communication to the District Magistrate. It finally states that the District Magistrate got the matter, as to whether Vijay Kumar Ram and the petitioner Manish Kumar were one and the same person, inquired into through the Deputy Collector, Land Reforms, Patori who submitted his inquiry report dated 25.11.2014, a copy of which has been brought on record as Annexure-L to the counter affidavit of the Board.

11. On perusal of the inquiry report of the Deputy Collector, Land Reforms, Patori it transpires that he inquired into the matter personally by visiting the house of the petitioner. He met persons living in the neighborhood as also made inquiries from the mother of the petitioner. As per report, all of



them stated that the father of the petitioner namely Alakh Deo Ram had one elder daughter and one son namely Vijay Kumar Ram who is also known as Manish Kumar, the petitioner herein.

12. Learned counsel for the petitioner has submitted his reply to the counter affidavit of the Board disputing the aforesaid facts as also stating that the report has been submitted by the Deputy Collector Land Reforms without any inquiry.

13. Having heard learned counsel for the parties and having perused the material on record, this Court is of the opinion that serious disputed questions of facts arise with supporting documents having been submitted on affidavits both by the petitioner and also by the respondent-Board. While the petitioner relies on a copy of the letter written by the Circle Officer, Mohanpur (Annexure-13 to the writ application), the respondent-Board places reliance on the report of the Deputy Collector Land Reforms, Patori (Annexure-L to the counter affidavit of the Board).

14. In the opinion of the Court, disputed questions of facts cannot be decided by this Court in its jurisdiction under Article 226 of the Constitution of India. As such, no relief can be granted to the petitioner in the instant writ application. The only remedy available to the petitioner is to approach the



learned trial Court for the relief prayed for herein.

15. The writ application stands dismissed.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
Uploading Date	18.12.2023
Transmission Date	N/A

