

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11317 of 2019

Prabhat Ranjan Son of Sri Prem Shankar Mandal, Resident of Mohalla- Bari Daulatpur, Jamalpur, P.S.- Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Chairman, Madhayamik Shikshaka, Bihar School Examination Board, Budh Marg, Patna.
3. The Bihar School Examination Board through its Secretary.
4. The Examination Controller (Secondary) Bihar School Examination Board, Patna.
5. The Secretary, Bihar School Examination Board, Patna.
6. The Deputy Secretary, Lok Suchana, Padadhikari.
7. The District Education Officer, Munger.
8. The Principal, High School, Phulka, Jamalpur Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Krishna Kumar Tiwary
For the Respondent/s : Mr.Smt. Binita Singh (Sc28)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

8 11-12-2023

1. Heard the parties.

2. By the impugned order, published in the newspaper dated 08.04.2019, at *Annexure 1*, the matriculation certificate of the petitioner, issued in the year 2005, has been cancelled and in consequence thereof, petitioner has been debarred from using marksheet and original certificate of matriculation bearing No. 19053.

3. Learned counsel for the petitioner submits that the petitioner took admission in class 8 in the High school Phulka



Jamalpur, Munger, in the year 2002 i.e., on 08.02.2002 as a regular student. The date of birth of the petitioner mentioned in the school register was 28.02.1991 but, due to family dispute, the petitioner was pressurized by his uncle, Praveen Kumar Chaurasia, for filling up C.B.S.E. board examination 2004 from Allahabad branch of C.B.S.E. as a private candidate. Although, the petitioner was not ready to appear in that examination inasmuch as he had not prepared the course C.B.S.E. board and at that point of time, was a student of class 9 but the uncle of the petitioner obtained his signature and rest details of the form was filled up by him. Petitioner, at that point of time, was a minor and his parents were not available at the residence.

4. The petitioner failed in that C.B.S.E. examination where his date of birth was mentioned by his uncle in the form as 28.02.1990 instead of 28.02.1991 mentioned in the admission registration of the school at Jamalpur.

5. Petitioner, as a regular student, appeared in the examination held by the Bihar School Examination Board in 2005 and in the examination form, he mentioned his date of birth as 28.02.1991, as per school register. Petitioner passed the matriculation examination held by B.S.E.B in 2005 in second division, thereafter, in 2007, petitioner passed intermediate



examination from R.D. & D.J. college, Munger, conducted by the Bihar School Examination Board and got first division. The petitioner cleared the Bachelor of Commerce examination, (B.Com), in 2010 from T.M. Bhagalpur University in first division, thereafter, petitioner pursued B.Ed degree in Teachers Training College Katoria and got passed the same in first class. Petitioner also passed M.Com examination in 2015 in first division.

6. On 26.09 2012, petitioner received a show cause letter, issued by respondent No. 6, seeking clarification regarding the petitioner's appearance in C.B.S.E. board and date of birth mentioned therein as 28.02.2019. The petitioner, for the first time, came to know that some complaint was filed by someone, against the petitioner, in this regard. By letter dated 09.10.2012, the petitioner demanded the copy of the complaint filed against him from respondent No. 6 for submitting proper reply but the copy of the complaint was not furnished to him. The petitioner, however, submitted his reply on 08.11.2017 stating therein the full facts that Praveen Kumar Chaurasia i.e., complainant, although, he is uncle of the petitioner, but is inimical with the family of the petitioner due to some property dispute and he is also advocate at Munger. Shri Chaurasia



pressurized the petitioner while he was studying in Class 9 at Phulka High School to appear in C.B.S.E. board for 10th class and at that point of time, father of the petitioner was out of Bihar. The signature of the petitioner was only taken on the form and rest details were filled up by his uncle. Petitioner was minor at that point of time and his uncle submitted the form. It was not under the knowledge of the petitioner that what date of birth was mentioned by his uncle in C.B.S.E. examination form.

7. Learned counsel for the Bihar School Examination Board submits that the Board has taken a decision to cancel the result of matriculation examination of the petitioner on the basis of Bihar School Examination Regulation 1964. He placed the Rule 19 of the Examination Regulation which is as follows:

"In any case where the result of the examination has been ascertained and published and it is found that such result has been affected by error, mal-practice, fraud, or any other cause whereby an examinee in the opinion of the Board been party to or privy to or connived at such mal- practice, fraud or improper conduct the Board shall have power at any time, notwithstanding the issue of the certificate to amend the result of such examinee and to make declaration as it may consider necessary in that behalf."



8. Since the conduct of the petitioner was improper and therefore he is not a clean person deserving any discretionary relief by this Hon'ble Court.

9. Learned counsel appearing for responded No. 8 i.e., Principal High school Phulka, Jamalpur, Munger, submits that as per the school register, the petitioner had taken admission in this school on 08.02.2002 as a regular student in class 8 in which date of birth was mentioned as 28.02.1991. The petitioner appeared, from this school, in 2005 annual examination held by Bihar School Examination Board and passed in second division. Copy of the admission register of the school has been annexed as *Annexure R8/8* by respondent No. 8.

10. I have heard learned counsel for the parties and have gone through the material on record, the petitioner appeared in the examination, held by Bihar School Examination Board in the year 2005, as a regular student and passed the same in second division. It is not disputed that the petitioner, in the examination form of the board, has mentioned his date of birth as 28.02.1991 as was mentioned in the school register of the petitioner at the time of taking admission in class 8 in the year 08.02.2002. There was no column in the examination form of the Board for disclosing the details of previous examination of



other Board in which the petitioner participated or appeared. The petitioner has not concealed anything from the Board at the time of submission of his application form. It is only after the complaint made by uncle of the petitioner with whom he was having inimical terms, the board inquired into the matter and issued a show cause that the petitioner did not disclose regarding appearance in the C.B.S.E. Board examination held in 2004 by giving his date of birth as 28.02.1991. It is not a case that the petitioner appeared in examination, held by Bihar School Examination Board, twice and mentioned two different dates of birth. Under pressure from his uncle, the petitioner, while he was studying in class 9 as a regular student in High School Phulka, Jamalpur, Munger, was made to appear as a private student in C.B.S.E. Board and failed. It is not the case of the respondent/Board that the petitioner connived to play fraud upon the Board.

11. The status of the petitioner as a regular student never changed and he continued to pursue his study in the school and after studying class 9th, 10th, he appeared in the annual examination held by the Bihar School Examination Board in 2005. Since the petitioner was minor in the year 2004, his parents were not available, as such, benefit of doubt can be



given to the petitioner that he was not intending to play fraud upon the Board. After passing of the board examination in 2005, the petitioner pursued his further studies and it is on the record that the petitioner has completed his intermediate, bachelor and master degrees in commerce and also completed B.Ed course. The concerned school, in which the petitioner studied as a regular student, has confirmed that as per the admission register, the date of birth of the petitioner is 28.02.1991.

12. After giving objective consideration on the material on record and the fact that the petitioner has completed his higher studies and has obtained Master and Bachelor of Education Degree etc, in my opinion, cancellation of the matriculation result, at this stage, shall cause serious prejudice and injustice to the petitioner. Accordingly the present writ application is allowed.

13. The impugned notice at *Annexure I* is set aside.

(Anil Kumar Sinha, J)

HarshPandey/-

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