

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1649 of 2017
In
Civil Writ Jurisdiction Case No.10418 of 2017

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1. The Chairman
 2. The Secretary, Bihar School Examination Board, Patna.
 3. Director, Bihar School Examination Board, Patna.
 4. Examination Controller, Bihar School Examination Board, Patna.
 5. Chief Vigilance Officer, Bihar School Examination Board, Patna.

... .. Appellant/s

Versus

1. Priyanka Singh daughter of Sri Rajeev Kumar Singh through her natural guardian/father namely Rajeev Kumar Singh son of Raj Kumar Singh Resident of Village - Ganga Prasad, P.O. - Sitanabad, P.S. - Bakhtiyarpur, District - Saharsa.
2. The State of Bihar.
3. The Principal Secretary cum Secretary to Government, Human Resources Development Department, Govt.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Satyabir Bharti, Advocate Mr. Abhishek Anand, Advocate Ms. Sushmita Sharma, Advocate Ms. Kanupriya, Advocate
For the Respondent/s	:	Mr. Ashutosh Ranjan Pandey, AAG15

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

- 11 13-07-2023 1. Heard learned counsel for the parties.
2. The relevant facts in brief are that the writ petitioner-
respondent no.1 appeared in the Matriculation ie Class 10th



Examination conducted by the Bihar School Examination Board, Patna ('BSEB' in short) in the year 2017. She was declared to have failed and shown to have secured 9/100 marks in Sanskrit and 29/100 marks in Science (theory) papers. In the other papers she secured 78/100 in Hindi, 93/100 in Mathematics, 90/100 in SSC and 78/100 in English. Having applied for scrutiny of her results in the two papers that she was shown to have failed ie Sanskrit and Science (theory) and also having applied to obtain copies of the answer sheets under the Right to Information Act, not having received marks on scrutiny or copies of the papers, the respondent no.1 filed CWJC no. 10418 of 2017 for the following reliefs:

“(i) For direction to the Respondents authorities to produce the scan copy of the petitioner who appeared in the Matriculation i.e. 10th Class Examination conducted by the Bihar School Examination Board, Patna in 2017 from D.D. High School Sardiha under Simri Bakhtiyarpur Block, District- Saharsa of Sanskrit and Science theory in which she has been given very lesser marks in the said examination.

(ii) For direction to the Respondents authorities to reexamine/reevaluation the copy of the petitioner of Sanskrit and Science theory of 10th Matric Examination 2017 in which she appeared in the examination in the year 2017.

(iii) For issuance of any other order/ orders, writ/writs to which petitioner is found to be entitled.”



3. By judgment dated 18.10.2017 the learned Single Judge was pleased to dispose of the writ application directing the Chairman of the BSEB to pay a sum of Rs. 5 lacs by way of compensation and cost of litigation to the respondent no.1 and to return the amount of Rs.40,000/- deposited by her forthwith. It is against this judgment dated 18.10.2017 that the BSEB has preferred the instant appeal.

4. Learned counsel appearing for the appellant BSEB submits that the learned Single Judge committed an error in passing general directions in the final order disposing of the writ application in view of the fact that it was not a public interest litigation. The BSEB had taken all measures in right earnest and there was no mistake or negligence by any of the officials of the BSEB. It was lastly submitted that in the facts and circumstances of the case, the general direction to the BSEB not to refuse the application for verification of the answer sheet be set aside/suitably modified.

5. Having heard learned counsel for the parties and having perused the material on record, the relevant facts in brief are that the respondent no.1 having appeared in the Matriculation examination conducted by the BSEB in the year 2017 received her result showing her to have failed. She was



shown to have secured 9/100 marks in Sanskrit and 29/80 marks in Science (theory). She filed an application under the Right to Information Act demanding scanned copies of the answer sheets of the subjects she was shown to have failed in and also applied for scrutiny. Not getting any relief she approached this Court by filing the writ application.

6. During course of hearing of the writ application it was submitted on behalf of the BSEB that on scrutiny no change was found in the marks obtained by the respondent no.1 in the above two subjects. On the respondent no.1 being ready to deposit a sum of Rs. 40,000/- in Court on the condition that the same would be forfeited if her claim was not found to be correct, on the direction of the Court, the Board produced the answer sheets of the two subjects. In the answer sheets produced while the Sanskrit paper showed the respondent no.1 to have obtained 9/100, the Science (theory paper) showed the respondent no.1 to have obtained 7/80 although the website of the BSEB showed the marks obtained by the respondent no.1 to be 29/80. It further transpires that the respondent no.1 who was present in Court, on perusal of the answer sheets disclosed that the answer sheets did not belong to her and as directed also gave a sample of her handwriting. On perusal of the same the learned Single



Judge found that the same appeared to be substantially different from the handwriting of the candidate in the answer sheets produced.

7. Subsequently, the BSEB constituted a six Member High Level Committee which on enquiry came to detect manipulations done in the bar coding in the answer books of the respondent no.1 in her Sanskrit and Science (theory) answer books. On the basis of the enquiry report an FIR was registered and a fresh corrected marksheet was issued to respondent no.1 giving her marks in accordance with the marks awarded to her in the other subjects and she was declared to have passed.

8. Learned Single Judge taking into consideration the facts and circumstances of the case, the wrong committed by the BSEB, the mental agony which the respondent no.1 had to undergo and the decision of the Hon'ble Supreme Court in the case of Hira tikkoo versus Union Territory, Chandigarh and ors. [(2004) 6 SCC 765] directed for award of cost of Rs. 5 lacs to be paid by the BSEB to the respondent no.1 by way of compensation and cost of litigation and further directed that the sum of Rs.40,000/- to be returned forthwith.

9. In the opinion of this Court, in the facts and circumstances of the case and specially the mental agony which



the respondent no.1 had to bear, the compensation and cost of litigation to the tune of Rs.5 lacs awarded to the respondent no.1 cannot be in any manner said to be exorbitant or unreasonable.

10. At the same time, it would be relevant to take note of the fact that the learned Single Judge has further directed that for the 2017 Secondary or Senior Secondary Examination, the BSEB shall not refuse an application for verification of the answer sheets, if made, subject to reasonable conditions and instructions as may be prescribed by the Board. Further this Court taking note of the orders which can be passed under Article 226 of the Constitution of India directed that on the point of verification, it shall be confined to those candidates only who have applied for scrutiny and are not satisfied with the outcome thereof. For ready reference paragraph no. 19 to 21 of the judgment are quoted hereinbelow:

“19. This Court in a recently decided matter on 18.09.2017 in case of Ugra Narayan Mandal Vs. State of Bihar and ors. (CWJC No. 9650 of 2017), in respect of evaluation done by the Board of "Teachers' Efficiency Examination" has noticed that in one of the subjects, out of total 75 Model Key Answers, 59 were incorrect, on the basis of which the evaluation was done. This kind of conduct of the Board, which the Court has noticed on various occasions, compels it to direct that at least for the 2017 Secondary or Senior Secondary Examination,



the Board shall not refuse an application for verification of answer-sheets, if made, subject to reasonable conditions and instructions as may be prescribed by the Board. Though there is no specific provision which permits the Board to take up re-evaluation of answer-sheets, in my view, after having noticed the facts and circumstances of the case, it would be unsafe and unjust at the same time, to allow the Board to refuse to verify answer-sheets, if a specific case is made out for the same by an examinee. This is to be kept in mind that the process through which the fact whether marks of a candidate against various papers has been allotted on the basis of evaluation done of his/her answer-sheet can be known, is nothing but 'scrutiny' or 'verification'. Right of any examinee in any examination held by any statutory authority or body discharging public duties to demand such scrutiny or verification is his/her right of fair treatment which is so fundamental in nature that cannot be denied, if reasonably and promptly made.

20. The Court is of the further view that in an appropriate case, if the evaluation done is found to be grossly arbitrary and unjust, this Court in exercise of extraordinary writ jurisdiction under Article 226 of the Constitution of India, may direct re-evaluation of answer-sheet, for, the arms of the Court in the said jurisdiction are long enough to reach injustice, wherever it is found.

21. So far as direction on the point of verification is concerned, it shall be confined to those candidates only who have applied for scrutiny and are not



satisfied with the outcome of the scrutiny. The Chairman of the Board shall be responsible to chalk out the plan and procedure for the same and the Court directs him to proceed accordingly.”

(emphasis supplied)

11. Having perused the material on record and specially the contents of the order of the learned Single Judge as quoted hereinabove it transpires that so far as the direction to the appellant BSEB is concerned, the same is restricted to the candidates who appeared in the 2017 Secondary or Senior Secondary Examination and who applied for scrutiny and are not satisfied with the outcome of the scrutiny. Further the said direction is qualified on the condition of the examinee making out a specific case for the same and also the same being subject to reasonable conditions and instructions as may be prescribed by the Board.

12. Thus in view of the above facts, this Court does not observes any further.

13. The appeal stands disposed of.

(K. Vinod Chandran, CJ)

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(Partha Sarthy, J)

