

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9805 of 2023

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Ankit Kumar S/o Mahesh Kumar Prabhakar Village-North Dhamoun, P.S.-
Shahpur Patori, District-Samastipur, Pin-844506.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna, Bihar Pin-
2. The Department of Education, Government of Bihar through its Additional Chief Secretary, New Secretariat, Vikas Bhawan, Bailey Road, Patna, Bihar-800015
3. The Additional Chief Secretary, The Department of Education, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna, Bihar-800015
4. The Director, Secondary Education, Department of Education, Government of Bihar, New Secretariat, Vikas Bhawan, Bailey Road, Patna, Bihar-800015
5. Bihar School Examination Board, Patna through its Secretary, Buddh Marg, Budh Vihar, Fraser Road Area, Patna, Bihar 800001
6. The Chairman, Bihar School Examination Board, Buddh Marg, Budh Vihar, Fraser Road Area, Patna, Bihar 800001
7. The Controller of Examination (Mise.), Bihar School Examination Board, Buddh Marg, Budh Vihar, Fraser Road Area, Patna, Bihar 800001
8. The Bihar Public Service Commission through its Secretary, 15, Nehru Path (Bailey Road), Patna-800001
9. The Chairman, Bihar Public Service Commission, 15, Nehru Path (Bailey Road), Patna-800001
10. The Controller of Examination, Bihar Public Service Commission, 15, Nehru Path (Bailey Road), Patna-800001

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Navnit Kumar, Advocate Mr.Amit Pandey, Advocate
For the State	:	Mr.Jitendra Kr. Roy 1, SC-13 Mr.Jai Prabhat Kishore, AC to SC-13
For the BPSC	:	Mr.Sanjay Pandey, Advocate Mr.Nishant Kumar Jha, Advocate
For the BSEB	:	Ms.Binita Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 27-07-2023

Heard learned counsel for the petitioner, learned



counsel for the State, learned counsel for the Bihar Public Service Commission and learned counsel for the Bihar School Examination Board.

2. Petitioner, in the present case, is seeking the following reliefs:-

“(i) for issuance of an order(s)/direction (s) or an appropriate writ(s) for setting aside/quashing the final result of Secondary Teacher Eligibility Test (STET), 2022 (Commerce) which was published by Bihar School Examination Board on 10.06.2023. And/or

(ii) For issuance of an order(s)/direction(s) or writ(s) in the nature of Mandamus directing the Bihar School Examination Board to re-publish the final result of Secondary Teacher Eligibility Test (STET), 2022 (Commerce) on the basis of the same qualifying marks which was used by Bihar School Examination Board for publishing the final result of Secondary Teacher Eligibility Test (STET), 2019 or, in the alternative, direct the Bihar School Examination Board to re-publish the final result of Secondary Teacher Eligibility Test (STET), 2022 (Commerce) without following the “Normalization method” as described at Clause-9 of the Advertisement No. PR-1/2023. And/or

(iii) For issuance of an order(s)/direction(s) or an appropriate writ(s) for setting aside/quashing Clause (H) of the Advertisement No. 26/2023 dated 30.05.2023 issued by the Bihar Public Service Commission whereby and whereunder in an arbitrary and unreasonable manner a candidate having qualified in STET in Commerce is being compelled to choose and apply in only one of the three subjects namely Accountancy (Sl. No. 15, Total No. of Posts 612), Business Studies (Sl. No. 16, Total No. of Posts 1328) and Entrepreneurship (Sl. No. 17, Total No. of Posts 492). And/or

(iv) For issuance of an order(s)/direction(s) or writ(s) in the nature of mandamus further directing the Bihar Public Service Commission to permit the petitioner to apply pursuant to Advertisement No. 26/2023 dated 30.05.2023 issued by the Bihar Public Service Commission for appointment as Senior Secondary School Teacher in all the subjects namely, Accountancy (Sl. No. 15, Total No. of Posts 612), Business Studies (Sl. No. 16, Total No. of Posts 1328) and Entrepreneurship (Sl. No. 17, Total No. of Posts



492) inasmuch as in terms of the Advertisement No. 26/2023 dated 30.05.2023 issued by the Bihar Public Service Commission a candidate having qualified in STET in Commerce is eligible for all the three subjects namely Accountancy, Business Studies and Entrepreneurship. And/or

(v) For issuance of an order(s)/direction(s) or writ(s) in the nature of mandamus further directing the Bihar Public Service Commission to permit the petitioner to apply and appear in all the stages of the competitive examination pursuant to Advertisement No. 26/2023 dated 30.05.2023 issued by the Bihar Public Service Commission for appointment as Senior Secondary School Teacher in all the three subjects namely Accountancy (Sl. No. 15, Total No. of Posts 612), Business Studies (Sl. No. 16, Total No. of Posts 1328) and Entrepreneurship (Sl. No. 17, Total No. of Posts 492) inasmuch as the last date of filling of the application form is 12.07.2023. And/or

(vi) Pass such other order(s) which may appear fit and proper in the facts and circumstances of the instant case.”

3. It is the case of the petitioner that he appeared in the Secondary Teacher Eligibility Test (hereinafter referred to as the ‘STET’) 2022 (Commerce) conducted by the Bihar School Examination Board (hereinafter referred to as the ‘Board’) under Advertisement No. PR01/2023. He has a grievance against the provision for Normalization. It is, however stated that in the advertisement of the Board there was a stipulation that the result of STET exam would be published not on the basis of qualifying marks rather the same shall be published only after normalization as per Clause ‘9’.

4. In course of submissions, learned counsel for



the petitioner submits that pursuant to the order of this Court passed in CWJC No. 7387/2020, the Bihar School Examination Board (hereinafter referred to as the “Board”) came out with an Advertisement No. PR-01/2023 (Annexure ‘4’) wherein for the STET in Commerce stream a candidate was required to appear in Paper-II whereunder three subjects namely, Accountability, Business Studies and Entrepreneurship were enlisted. In this advertisement the pass marks for the backward class candidate has been provided under Clause-7 and according to this a backward class candidate would pass the test on obtaining 45.5% marks. Later on, vide Advertisement No. P.R. 14/2023 (Annexure ‘5’) an amendment was done in PR-01/2023 in respect of the subject and eligibility.

5. It is submitted that the petitioner appeared in STET Examination conducted for the Commerce stream and secured 68.06 out of total 150 marks. Initially, the petitioner had obtained 72 marks but after the Normalization Procedure was adopted as per Annexure ‘4’ (clause 9), his marks were reduced to 68.06. Thus, the petitioner failed to achieve 45.5% marks and stood disqualified.



6. Learned counsel has sought to challenge the pass marks fixed under the advertisement, as according to him, the Board has acted arbitrarily in fixing the pass marks.

7. Learned counsel for the BPSC and the Board have opposed this writ application. Learned counsel for the Board submits that it is always in the domain of the employer of the examining body to fix the pass marks. It is further submitted that the petitioner is unable to demonstrate any legal and valid ground to show that the fixation of pass marks was arbitrary.

8. It is further submitted that the petitioner, having appeared in the STET 2022 in the Commerce stream under the advertisement in question, cannot be allowed to agitate a plea as to passing marks at this stage when he failed to make it a pass.

9. Having heard learned counsel for the parties as also on going through the records, this Court finds substance in the submissions made on behalf of the Board and the BPSC. The petitioner was a candidate under the advertisement. He had appeared knowing fully well the pass



marks which he was required to obtain to qualify in the eligibility test. He was also aware of Clause ‘9’ of Annexure ‘4’ which laid down the Normalization Procedure. Under these circumstances, at this stage, this Court would not entertain a plea to challenge the pass marks fixed by the examining body and the Normalization Procedure under Clause ‘9’ of the advertisement (Annexure ‘4’).

10. This Writ Application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	29.07.2023
Transmission Date	

