

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18707 of 2019

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Pooja Kumari Daughter of Sri Birendra Mishra Resident of Village and P.O.-
Doalakh, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna.
3. The Director, Research and Training, Education Department, Govt. of Bihar, Patna.
4. The Chairman, Bihar School Examination Board, Patna.
5. The Secretary, Bihar School Examination Board, Patna.
6. The Examination Controller, Bihar School Examination Board, Patna.
7. The Principal, J.P. Shikshak Prashikshan Mahavidyalaya, Mathurapur Ghat, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhay Shankar Singh, Advocate. Mr. Barun Kumar Singh, Advocate.
For the State	:	Mr. Nishant Kumar Jha, AC to SC-28
For the BSEB	:	Ms. Namrata Mishra, Advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 17-04-2023 Heard learned counsel for the parties concerned.

2. The petitioner herself enrolled for D.EL-Ed.

Training course in the Sesion 2017-19 in J.P. Shikshak Prashikshan Mahavidyalaya, Samastipur, while she was working as teacher in Government Primary School, Doalakh (Girls), Block Madhepur, Distt. Madhubani. She was relieved from her school for the purpose of completion of regular training course of D.El.Ed. For the session 2017-19 vide Memo No. 448 dated 18.11.2017 issued by the Block Education Officer, Madhepur, Distt. Madhubani. The petitioner relieved from her post for



completion of training under the D.El.Ed. Course at the aforesaid institution, which, according to the petitioner is, duly recognized and affiliated Pvt. College having recognition from NCTE, Bhubaneswar and affiliation from Bihar School Examination Board, Patna, and Lalit Narayan Mithila University, Darbhanga.

3. Learned counsel for the petitioner submits that as per the Policy of the Government, in service candidates were required to complete the training course. Accordingly, the petitioner got herself admitted in the Private Training College for the session 2017-19. In the meanwhile, since the cut-off date fixed by the Government was expiring, accordingly, some of the Private College approached this Court in CWJC No. 2121 of 2019 and its analogous cases. There were two categories of the petitioners in the aforesaid writ application; one category was of the teachers who were working in the Government Colleges and other categories was of general candidates. In the said writ petition, as per the agreement arrived at between both the parties was that in service candidates of the Private Colleges would be eligible to appear in the D.El.Ed. Examination 2019 and the result was scheduled to be published by 31st of March, 2019. So far as the general candidates of the Private Colleges are



concerned, it was agreed that D.El.Ed. Examination for the Session 2017-19 would be held in the month of May, 2019 and the result would be published by the end of month of June, 2019.

4. Learned counsel for the petitioner further submits that as per the order passed by this Court in the aforesaid writ application dated 19.2.2019, examination for training course for the Session 2017-19 were held for in service candidates as well as for general candidates as per agreed schedule. He further submits that since the writ petitioner could not approach this Court at earlier point of time when the writ petition was being disposed by this Court in CWJC No. 2121 of 2019 and its analogous cases, she filed a separate writ application before this Court in CWJC No. 3937 of 2019 for allowing her to appear in the examination to be held in the month of May, 2019 along with the general Candidates, though, the petitioner was admittedly in service candidate and has completed the training for the Session 2017-19.

5. This Court vide its order dated 28.02.2019 passed in CWJC No. 3937 of 2019 allowed the writ application and granted liberty to the petitioner to approach the Bihar School Examination Board by filing a representation and if it was found



that there was no impediment and the petitioner was fulfilling all the criteria as required to be fulfilled, the respondents shall permit her to appear in the special examination of D.El.Ed. to be held in the month of May, 2019.

6. Learned counsel for the petitioner next submits that there was no impediment legal as well as procedural against the petitioner and, accordingly, the Bihar School Examination Board allowed the petitioner to appear in the D.El.Ed. Examination held in the month of May, 2019.

7. Now the issue which needs consideration before this Court is that whether there is any legal impediment in directing the Bihar School Examination Board to publish the result of the examination taken by the petitioner in May, 2019 which is the only grievance of the petitioner in this writ application.

8. Per contra learned counsel for the Bihar School Examination Board submits that as per the order passed by this Court in CWJC No. 2121 of 2019 and its analogous cases there were two sets of examinees, one set was the general candidates who were not in service and other set was in service candidates. This Court fixed the date for holding the examination of in service candidates in March, 2019 and for general candidates in



May, 2019. Accordingly, Education Department issued direction to the Board to hold the examination of in service candidates in March, 2019 and since there was no direction for the petitioner by the Education Department to hold the examination for her in May, 2019, therefore, the result of the petitioner has not been published by the Board.

9. Learned counsel for the State submits that the petitioner failed to participate in the examination of in service candidates held in March, 2019 and this is the reason the result has not been published by the Bihar School Examination Board.

10. I have heard learned counsel for the parties.

11. It is an admitted position that the petitioner has completed the training course from the recognized college for the Session 2017-19. It is also an admitted position that the petitioner was allowed to appear in the examination to be held in May, 2019 pursuant to the order dated 28.02.2019 passed by this Court in CWJC No. 3937 of 2019. The tenor of the order of the High Court was that if there is no impediment in allowing the petitioner to appear in the examination to be held in May, 2019 and if the petitioner was fulfilling all the criteria as required to be fulfilled, the respondent shall permit her to appear in the special examination and accordingly considering this



aspect of the matter, the Board allowed the petitioner to appear in the special examination of the D.El.Ed. held in the month of May, 2019.

12. In view of the conspectus of fact discussed hereinabove, this Court is of the opinion that the petitioner was fulfilling all the criteria and there was no impediment in allowing her to appear in the examination and, accordingly, she took the examination as permitted by the Board held in the month of May, 2019. Therefore, irresistible conclusion is that if the Board has allowed the petitioner to appear in the examination finding her eligible, the Board cannot take different stand and is obliged to publish the result of the petitioner. It is nobody's case that the petitioner did not appear in the examination held in May, 2019. Accordingly, I come to the conclusion that withholding the result of the petitioner by the Bihar School Examination Board on the ground that the Education Department has not directed the Board to publish the result, is unsustainable.

13. In the result, this writ application is allowed and the Bihar School Examination Board is directed to publish the result of special D.El.Ed. Examination of the petitioner held in the month of May, 2019 within a period of two weeks from the



date of receipt/production of a copy of this order.

(Anil Kumar Sinha, J)

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