IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3895 of 2018

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1. Randhir Kumar Bharti and Anr Son of Ram Kishore Singh Resident of Village- Amain, P.S.-Parasabigha, District- Jehanabad.
2. Arvind Kumar Son of Sri Kusha Nandan Singh Resident of Village- Osari, P.O. Mhamanna, District- Gaya.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Additional Commissioner Commercial Taxes, New Secretariat, Patna.
3. The Dy. Commissioner Commercial Taxes, New Secretariat, Patna.
4. Joint Commissioner, Commercial Taxes, Bhagalpur Division, Patna.
5. The District Magistrate, Bhagalpur.
6. Head Master, Ram Chandra Singh High School Ibrahimpur, Sri Bigaha, District- Jehanabad.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Rajiv Ranjan Pandey, Advocate
For the Respondent/s : Mr. Raghwanand, GA-11
Mr. Sanjay Kr. Tiwari, AC to GA11

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 25-09-2023 Heard Mr. Rajiv Ranjan Pandey, learned Counsel for the petitioners and Mr. Sanjay Kr. Tiwari, learned AC to GA-11.

2. This application has been preferred for issuance of an appropriate writ/writs, order/ orders, direction/ directions for appointment on class IVth post in pursuant of recommendation dated 04.02.2013 which has been recommended by District Magistrate cum president, District Selection Committee Bhagalpur and for the either necessary relief/reliefs on basis of facts and circumstances of the case.

3. The case of the petitioners is/are that pursuant to the advertisement published in 2001 for the appointment on class-IVth post, they applied. A merit list was prepared in the year 2004 in which the petitioners were at serial no. 133 and 135.

4. Further, the case of the petitioners is that in view of the resolution of the State Government of 16.03.2006, in case, there is any difference of date of birth, the same has to be decided by a Medical Board. The recommendation of the petitioners were for class-IV post in the Commercial Tax Department.

5. However, the same was rejected on 12.08.2014 due to the date of birth difference found with regard to the two petitioners (Annexure-5 to the petition).

6. The petitioners challenged the same in CWJC No. 6900 of 2016 which came to be dismissed by a co-ordinate Bench on 31.08.2016 and it is essential to incorporate the said order which read as follows:

> *"Heard learned counsel for the parties.*
>
> *In the disputed facts with regard to the petitioners ever working also in the daily-wage in the department at any point of time as*

well as other controversies relating to their date of birth, their education and school, from where they have obtained the certificates, there cannot be any direction on the part of the High Court to consider their case for appointment under the Department.

Enough churning even otherwise seems to have been done by the Department, which will be evident from the various orders and annexures, annexed with the counter affidavit. Last of them being Annexure-D, dated 18.05.2016.

Writ application is dismissed with liberty to the petitioners to establish their cases before the competent authority."

7. A counter affidavit has been filed on behalf of the respondent no. 3, the Dy. Commissioner Commercial Taxes, New Secretariat, Patna and it is important to incorporate paragraph 4 which read as follows:

4. That in reply to paragraph no.1 following facts are stated here-in-after:-

(i) That it is stated and submitted respectfully that the Panel/Original Application form,

made available by the District Officer, Bhagalpur and the Educational Qualification Certificate/Transfer certificate, submitted by the petitioners, showed discrepancies in the date of birth of both the petitioners, which creates doubt about the authenticity of date of birth of the petitioners. As such for the verification of date of birth, correspondence have been made with the Headmaster of the concerned school (i.e. High School Ibrahampur, Sri Bigha, Jehanabad) as well as the District Education Officer, Jehanabad.

(ii) That pursuant to the said letter, the Headmaster of the said school vide its letter No. 115 dated 28.03.2016 reported/ intimated that the certificate submitted by the petitioners are not available in the records of the school, further the name of petitioners are also not in the record of the school.

(iii) That in view of the statement made in the said letter, it is apparent that the certificate provided by the petitioners were forged and fabricated, and as such appointment cannot be made. In this regard,

information has also been sent to the District magistrate, Bhagalpur and both the petitioners vide letter no. 1718,1719 and 1720 dated 05.05.2016.

(iv) That, but subsequently an another letter of the said school i.e. letter no. 120 dated 09.05.2016 has been received in the office of Commercial Tax Department on 13.05.2016, in which it is stated that the earlier issued letter was defective & wrong, and the fact is that the name of both the petitioners are recorded in the register of school.

(v) That sine all these facts prima-facie constitutes irregularities. The Commissioner- cum-Principal Secretary Commercial Tax Department vide its letter no. 1917 (Annu) dated 18.05.2016 requested the Principal Secretary Education Department, Bihar, Patna to conduct High Level inquiry at his own level about the genuineness of the report given by Headmaster, High School, Ibrahimpur Sri Bigaha, Jehanabad.

(vi) That in pursuant to the aforesaid letter No. 1917 dated 18.05.2016, an enquiry was conducted

by the Regional Deputy Director of Education for verification of letter no. 120 dated 09.05.2016 issued by the Headmaster High School, Ibrahampur, Sri Bigha, Jehanabad and the Transfer Certificate of the petitioners.

(vii) That after getting the Inquiry-Report from the Regional Deputy Director of Education, Magadh Division, Gaya, the Principal Secretary, Education Department, Bihar, Patna vide its letter no. 102 dated 2007.2016 had intimated the department that the issue certificates were absolutely false and the act of the Headmaster is punishable. Direction has been issued to initiate Departmental proceeding against said headmaster.

Thus in view of the aforesaid facts and circumstances, the prayer made in paragraph no.1 of the writ petition is not maintainable and is fit to be dismissed.

8. From the aforesaid facts, it is clear that:

(i) a response was sought for from the Headmaster of the High School, Ibrahampur, Sri Bigha, Jehanabad and the Headmaster reported vide letter no. 115 dated 28.03.2016 that the documents relating to the petitioners are not in the record of the school (Annexure-A);

(ii) this information was sent to the District Magistrate, Bhagalpur as also the two petitioners on 05.05.2016 (Annexure- B series);

(iii) thus, on 05.05.2016 the petitioners came to know about the developments;

(iv) four days later, the Headmaster comes out with another letter no. 120 dated 09.05.2016 stating that their names are present in the school (Annexure-C);

(v) therefore, high level enquiry was ordered to go into the genuineness of the report submitted by the Headmaster of the High School, Ibrahampur, Sri Bigha, Jehanabad;

(vi) the Regional Deputy Director of Education, Magadh Division, Gaya conducted the enquiry and informed the Principal Secretary, Education Department, Bihar in his office letter no. 102 dated 20.07.2016 intimating that the second letter of the Principal is false and he is liable for proceeding and accordingly, the Principal Secretary directed departmental proceeding against him (Annexure-C).

9. From the aforesaid facts, it is very clear that the petitioners were never part and parcel of the said school but on

the basis of forged certificates/documents, they tried to enter into the service. In this illegal operation, they later roped in the Principal also who is facing the music.

10. As rightly pointed out by learned State Counsel, CWJC No. 6900 of 2016 was dismissed on 31.08.2016. Still the petitioners chose to move before this Court on the ground that in case of discrepancy, their cases be referred to the Medical Board.

11. In the considered view of this Court, it is not the case of difference in the date of birth rather use of forged documents to procure the service. Firstly, the petitioners submitted forged documents and when the Principal informed about it, once again allegedly managed him to send second letter.

12. It is ironical that the respondents though decided to proceed against the Principal, the actual beneficiaries were left out from the clutches of the criminal proceedings which emboldened them to prefer second writ petition.

13. It is high time the respondents consider the feasibility of taking appropriate steps in the matter for lodging of the FIR against the petitioners.

14. The writ petition is ill-advised, frivolous,

misconceived and is dismissed with a cost of Rs. 5,000/- each to both the petitioners (totalling Rs. 10,000/-) to be deposited with the Patna High Court Legal Services Committee within eight weeks from today and the matter be placed before this Court under the heading 'To Be Mentioned' after ten weeks to ascertain whether the amount has been deposited by the two petitioners or not.

(Rajiv Roy, J)

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