

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18281 of 2022

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1. Vivek Kumar Son of Santosh Kumar, resident of Village - Pipra Khurd, P.S. - Akbarpur, District - Nawada.
 2. Sonu Prasad Verma, Son of Suresh Prasad Verma, Resident of Village - Lodipur, P.S. - Akbarpur, District - Nawada.
 3. Abhishek Kumar, Son of Upendra Kumar, Resident of Village - Geyar, P.S. - Govindpur, District - Nawada under the guardianship of her mother Rina Devi, aged about 36 years (Female) W/o Upendra Yadav, R/o Village - Panti, Rajhar, P.S. - Akbarpur, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Secondary Education Department, Govt. of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The District Education Officer, Nawada.
5. The Block Education Officer, Akbarpur, Nawada.
6. The Principal, Plus 2 Inter School, Akbarpur, Nawada.
7. Ram Raman, Class Teacher of Plus 2 Inter School, Akbarpur, Nawada.
8. The Secretary, Bihar School Examination Board, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dharendra Singh, Adv.
For the Respondent No. 6 & 7 : Mr. Mrigendra Kumar, Adv.
For the State : Ms. Namrata Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

4 25-01-2023 1. The Secretary of Bihar School Examination Board, Patna is present in Court.

2. This Court on 24th January 2023 while hearing the case observed as under:

“Counsel for the Board states that a separate special examination shall be conducted for



students, who are left out on account of their forms having not been sent by the concerned school. Prima facie, the stand taken affect the future career of the students who cannot be said to be at fault.

Let the Secretary, Bihar School Examination Board, Bihar, Patna shall remain present in the Court tomorrow i.e. on 25.01.2023.”

3. Learned counsel for the petitioner has submitted that the form for examination is sent by the concerned school and there is no provision for directly sending the form to the Bihar School Examination Board for appearing in the Intermediate Annual Examination, 2023. The petitioner's form was not sent by the concerned school although, admittedly the form was submitted before the last date has expired.

4. Learned counsel for the School has submitted in its counter stating therein, that the forms could not be sent to the Board on account of technical problem on the portal server. The forms could not be uploaded in time.

5. The Secretary, Bihar School Examination Board, Patna has stated that in such situation the Board can only allow the students to now appear in special examination which is being conducted for students who are ex-students and left over students. He submits that there are several other students who



are similarly situated whose forms have not been received in time by the Board. Admit cards have therefore, not been issued to such students including the petitioner and they have also not appeared in the practical examination which have already been concluded by 20th of this month.

6. I have reflected on this submission, it is an admitted situation that the students are not authorised to submit their forms directly to the Board. The excuse taken by the school of the server not functioning on the relevant date and on account thereto, the forms could not be uploaded does not seem to be a satisfactory explanation. The Board has not given out any such statement that the portal server was down on account of technical problem and in these circumstances this Court finds that the petitioners' form was not uploaded by the school on account of their fault and the young students cannot be made to suffer due to such fault at the level of the school.

7. The students are regular students and therefore their examination has to be conducted along with the regular students. The special examination which is conducted by the Board is for students who are ex-students or failures or who are appearing in supplementary. The contention of the Secretary of the Board that the special examination is made for left over



students is also not found to be satisfactory. The meaning of left over students is not to include those students who are regular but whose forms were not sent by the school. Such students are in the opinion of this Court deliberately left out without their being any fault on their part. They cannot be made to suffer, their future career cannot be jeopardized on account of the inaction of the school and the Board taking a stand as against the school would not mean that they will make the concerned students suffer. The Board has to take a decision with regard to such anomalous situation as has arisen in the present case. If examination forms are not uploaded by school, while imposing fine on the management of the school, a provisional admit card should be issued to such students by the Board in order to save their future.

8. Having said as above, in the present case the Board is directed to issue a provisional admit card to the petitioner their forms shall be uploaded by the school and accepted by the Board. So far as their practical examination is concerned, the same may be taken separately by the Board, after the Board theory examinations are over or in between and their result shall be declared along with the results of the other regularly appearing students.



9. The observations made herein above by this Court shall be considered by the Secretary, Bihar School Examination Board and circular in this regard shall be issued to each school so that in future the students career may not be jeopardized.

10. With the aforesaid observation, the writ petition is allowed.

(Sanjeev Prakash Sharma, J)

Suraj/-
Item No. 4

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