

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1375 of 2019

In

Civil Writ Jurisdiction Case No.13556 of 2019

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1. The Bihar School Examination Board Patna through its Secretary.
 2. The Chairman, Bihar School Examination Board, Patna.
 3. The Secretary, Bihar School Examination Board, Patna.
 4. The Examination Controller, Bihar School Examination Board, Patna.

... .. Appellant/s

Versus

1. Anjani Kumari D/o Bindeshwari Prasad R/o Gopkita Ward No-9, P.S.- Pandarak, Distt- Patna.
2. The Principal, A.N. College, Barh, Distt- Patna.
3. The Principal, Dr Jakir Hussain, plus 2 Higher Secondary School, Patna City, Distt- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Gyan Shankar, Adv.
For the Respondent/s : Mr. Manoj Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 20-02-2023

Heard Mr. Gyan Shankar, learned advocate for the appellant/Bihar School Examination Board and the counsel for the respondents.

The appellant/Bihar School Examination Board has challenged the order dated 05.07.2019 passed by the learned Single Judge in CWJC No. 13556 of 2019 wherein a direction has been issued to the Board to examine the



provisions regarding supplementary examination and if there is no provision in the examination pattern for taking supplementary/compartmental examination for practical papers, then necessary correction be made with respect to the degree of the respondent who be awarded the degree without her passing the compartment practical examination and the marks of the earlier practical examination be taken into consideration.

The foremost ground on which this appeal has been premised is that the order was passed without calling for the counter affidavit from the respondent Board or else such an order would not have been passed.

There is no provision for taking examination of practical papers in compartment. So far as the case of the respondent is concerned, she had appeared as an examinee in the annual examination of 2017 which she failed and her attempt at passing the examination in 2018 also failed. The respondent appeared in 2019 as an ex-student in which she appears to have passed but, her



degree was not awarded for the reason of her not having passed the practical papers.

The Bihar School Examination Board had permitted such failed candidates of 2018 to appear in the 2019 examination without the requirement of passing any practical paper. Such a benefit was not afforded to an ex-student of 2017 batch.

Thus, for all practical purposes, the respondent was not entitled to appear in the examination conducted by the Bihar School Examination Board. If at all she was permitted to appear, she had to pass the practical papers as well, as such concession was afforded to only failed candidates of 2018 and 2019 and not of failed candidates of 2017 batch.

For the reasons aforesaid, this appeal is allowed.

The order dated 05.07.2019 passed by the learned Single Judge is set aside.



The Bihar School Examination Board shall have no responsibility to award any degree to the respondent for her not having passed the practical examination which was necessary for her to clear before any degree could be awarded to her.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
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