

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1384 of 2019

In

Civil Writ Jurisdiction Case No.17770 of 2018

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S. K. Rahed Hussain Mia Son of S.K. Abul Hussain Mian Resident of
Village- Gimageria, P.S.- Contai, District- Purba Medinipur, State- West
Bengal.

... .. Appellant/s

Versus

1. The Chairman, Bihar School Examination Board Budh Marg, Patna.
2. The Secretary, Bihar School Examination Board, Budh Marg, Patna.
3. The Principal Arjun Rajeshwari Yashoda Inter College, Kadam Kuan, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Siyaram Sahi, Advocate
		Mr. Md. Shakir Ahmad, Advocate
For the BSEB	:	Ms. Binita Singh, Advocate
For the Principal	:	Mr. Santosh Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 05-04-2023

Heard Mr. Siyaram Sahi, learned Advocate for the
appellant, Ms. Binita Singh for the Bihar School
Examination Board and Mr. Santosh Pandey for the
Principal.

The appellant had appeared and passed the Class
12th Examination held in the year 2000. At that time, the
examining body was the Bihar Intermediate Education
Council, Patna. The Bihar School Examination Board is the



successor of the afore-noted council. The appellant had approached this Court after about 17 years of his claim of having passed the Intermediate examination for a direction to the Board to issue a pass certificate in the Intermediate examination *vide* CWJC No. 9709 of 2017.

The writ petition was entertained in that instance and by judgment dated 07.12.2017, it was directed that in case of a suitable representation is filed by the appellant before the Board, the Board shall examine the matter and if it is found that he had passed the 12th examination in the year 2000, original certificate shall be issued to him within two months from the date of receipt/production of a copy of this order.

Armed with this order passed by the learned Single Judge, the appellant approached the Board for the needful but he was not granted certificate on the plea that according to the records available with the Board, the appellant had failed in non-Rashtrabhasha and therefore,



he cannot be declared as passed and consequently no certificate can be issued to him.

The aforementioned decision of the Board was again challenged by the appellant in CWJC No. 17770 of 2018, which has been disposed of on 16.08.2019 and which has been impugned in the present appeal.

It appears from the order that the learned Single Judge had examined and verified the general tabulation register and the reserved tabulation register lying with the Board. Thereafter, the Court did not find any discrepancy in the same and did not therefore accede to the request of the appellant.

In appeal, Mr. Shahi contended that he is in possession of three documents of unimpeachable character *viz.* the Provisional Certificate, the Marksheet and the Admit Card. In all the three documents, there is no reference of the appellant having elected non-Rashtrabhasha as a compulsory subject. Surprisingly, in all the documents named above, it is shown that the appellant



had chosen Hindi as one of the compulsory subjects and in the provisional result which was issued, he was shown to have passed the examination.

We, for our satisfaction, again called for both the registers and found that in both the registers, against the name of the appellant, it is shown that he had elected non-Rashtrabhasha in which he had obtained only four marks and therefore he could not have passed.

Ms. Binita Singh, however, states that *prima facie* there is no reason for her to doubt the genuineness of the documents furnished by the appellant, but in the absence of any other corresponding record and the only record available with the Board being the tabulation register and the reserved tabulation register, there is no way in which the request of the appellant could have been acceded to by the Board in issuing any pass certificate of Intermediate, the examination having been held in the year 2000.

For the satisfaction of the parties, we have again examined and verified both the registers as also the



documents furnished by the appellant. As a matter of caution, we also got impleaded the Principal of the School from where the appellant had passed the examination. The reason for impleading him was that according to the appellant, there was a general practice of one copy of such register to be forwarded to the Principal of the School.

Mr. Santosh Pandey, learned Advocate appearing for the Principal of the School has also furnished a forwarding letter and the mark-sheet which shows that the appellant had chosen Hindi/RBH (Rashtrabhasha) in which he has obtained 39 marks out of 50 and has been shown to have passed.

On a careful scrutiny of the documents placed before us, we find some disparity in the sense that the page number on the document furnished by the School and the page number of the general and reserved tabulation registers are different.



We are also a bit surprised as to the necessity of the appellant approaching the Court after about 17 years for grant of pass certificate by the Board.

Mr. Shahi, in response to the aforesaid observation submitted that if the writ petition was entertained twice, then there is no question of non-suiting him at the appellate stage on grounds of laches. He further submits that for some reason or the other, he is required to produce such certificate to continue in the job of Pharmacist.

The appellant has not been able to make us understand the urgency arising only after 17 years of his passing the examination. If he did not have the requisite certificate, how could he pursue higher education or obtain employment is the question which haunts us.

We do not find any rationale for the appellant to have come so late to the Court. Without commenting on the veracity and the genuineness of the documents furnished by both sides, we are constrained to observe that



the Bihar School Examination Board cannot be asked to issue a certificate on the basis of records which are available with them and which shows that the appellant had failed in the elected subject of non-Rashtrabhasha where he has obtained only four marks.

We say no further.

The appeal stands consigned and disposed of accordingly.

(Ashutosh Kumar, J)

(Harish Kumar, J)

krishna/shivank

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