

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17716 of 2021

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Jitendra Pandey Son of Late Bhrigunath Pandey, resident of Village-Bali,
Post-Pahara, P.S.-Paraiya Thana, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
3. The Director Secondary Education, Education Department, Government of Bihar, Patna.
4. Bihar School Examination Board through its Chairman, Fraser Road, Patna.
5. The Examination Controller, Bihar School Examination Board, Fraser Road, Patna.
6. The Secretary, Bihar School Examination Board, Fraser Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suryakant Kumar, Adv Mr. Braj Kishore Pd. Sinha, Adv
For the State	:	Mr. Madhaw Pd. Yadaw (Gp23)
For the B.S.E.B.	:	Mr. Gyan Shankar, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV JUDGMENT

Date : 31-08-2024

Heard Mr. Suryakant Kumar, learned counsel appearing on behalf of the petitioner, Mr. Gyan Shankar, learned counsel appearing on behalf of the Bihar School Examination Board (hereinafter referred to as the Board) as well as Mr. Madhaw Pd. Yadav, learned counsel for the State.

2. The petitioner has approached this Court for the following reliefs:-



(i) For directing the respondents, specially the respondent no. 5, to declare the petitioner qualified in Secondary Teacher Eligibility Test, 2019 (hereinafter referred as STET) Examination for appointment of Secondary School Teacher in Sanskrit Subject and accordingly publish the result of the petitioner who belongs to Economically Weaker Section (hereinafter referred as EWS) i.e. reserved Category as the petitioner has secured about 47.3% marks in the STET Examination for Sanskrit Subject.

(ii) For direction to the respondents to make appointment of the petitioner as secondary school teacher in Sanskrit Subject.

(iii) For any other relief / reliefs for which the petitioner is found entitled to in the facts and circumstances of the case.

3. The case at length is that, petitioner passed M.A. in the subject of Sanskrit in year 2008 from Magadh University, Bodh Gaya with first division and further completed his Ph.D. in Sanskrit from Magadh University in the year 2019. In the same year, an advertisement was published vide Advertisement No.PR 373 / 2019, the Board, Patna inviting applications for STET Examination for appointment of Secondary / Senior Secondary School Teachers for various subjects including 1054 posts for



Sanskrit Subject in Secondary School (Annexure-1 of the writ petition). In the said advertisement, it was mentioned that after furnishing subject-wise and category-wise details of posts by the Education Department, a merit list of qualified candidates would be prepared from higher marks to lower marks, in descending order, on the basis of marks of all the candidates in STET. The para 4 of the advertisement described programme for examination according to which Paper-I examination would be held for Secondary Teacher and Paper-II examination would be held for Senior Secondary Teacher.

4. In para-5 of the advertisement, it is mentioned that questions of eligibility test examination would be of multiple options having four options for each question with one mark for every question and there would be no negative marking. In para/clause-11, minimum qualification marks were prescribed as 50% for General Category and 45% for all reserved categories. Petitioner, being eligible, applied online for Paper-I in the STET with all desired documents online as an EWS category candidate (Annexure-2 of the writ petition).

5. Further, the petitioner got Admit Card and appeared in Paper-I Examination on 28.01.2020 at Gaya High School, Gaya but the examination was cancelled due to question leak before the



examination and accordingly, examination was rescheduled and held on 09.09.2020 online at ION Digital Zone IDZ 2, Patliputra, Patna. The result of the aforesaid examination was declared on 21.06.2021 online and petitioner was declared not qualified with 71 marks out of 150 marks which was about 47.3% (Annexure-3 of the writ petition).

6. That even after getting 71 marks i.e. 47.33%, petitioner was not declared qualified whereas for reserved category, as per advertisement, qualifying marks was 45%, so the petitioner tried to meet the Examination Controller and the Secretary of the Board but due to Covid-19 they refused to meet, hence, he represented and filed application before the Chairman, Secretary and Examination Controller of the Board through speed post on 26.06.2021. Petitioner also represented himself before the Education Minister, Bihar on 09.07.2021, who assured to look into the matter but nothing has happened till today.

7. He further submitted that according to para/clause-22 of the advertisement, any information regarding STET can be obtained under Right to Information Act, 2005 (hereinafter referred to as RTI Act) within 30 days of the publication of result. So, the petitioner sent application under the RTI Act on 16.07.2021, asking information that in Advertisement No.PR373/2019



published by the Board, it was clearly mentioned that reserved category candidate will be qualified on getting 45% marks in STET then why even after getting higher marks i.e. 71 out of 150 i.e. 47.33%, in Sanskrit subject, petitioner, who belongs to EWS category, has not been declared qualified.

8. The Public Information Officer of the Board gave a vague information vide Letter No.2291 dated 23.08.2021 that the result has been published under para/clause-11 of the advertisement. Thereafter, petitioner again asked information under the RTI from the Board to supply the list of successful qualified EWS candidates and their marks obtained in STET, 2019 (Adv. No.PR 373/2019) of Sanskrit subject result published on 21.06.2021 by the Board but again the Public Information Officer of the Board did not supply the list of EWS candidates of Sanskrit subject and marks obtained by them, however, he informed that 105 candidates belonging to EWS category have been selected in the merit list for Sanskrit subject.

9. He further submitted that against the aforesaid vague information, petitioner filed an appeal before the Appellate Authority under RTI before the Board, Patna.

10. He further submitted that on 21.08.2021, at about 12.00 O'clock, petitioner got a call from mobile no.8337088369 and the



caller said that his name is Gopal Singh and he is computer operator in the Board and he gave all details of the petitioner including his roll number, name, father's name, mother's name and marks obtained by him in STET and further said that he will make the petitioner qualified in STET but for that petitioner will have to pay Rs.60,000/- out of which petitioner should pay Rs.30,000/- at present in his Account No.39348100019773, IFSC BARBOPATNAB and rest Rs.30,000/- after getting the result showing qualified.

11. Petitioner gave a written complaint about the said incident to Vishnupad Police Station, Gaya but even after repeated visit and request, no FIR was lodged and at last a copy of the complaint was handed over to S.S.P. of Gaya, on 02.09.2021 for lodging FIR and investigation of the same.

12. He further submitted that in para/clause-5 of the advertisement it was clearly mentioned that there would be no negative marking but after going through the result, it is clear that negative marking has been done because the marks was given in decimals.

13. He further submitted that the Board has disqualified the petitioner in STET examination illegally and corrupt practices are prevailing in the Board while giving result of STET.



14. A counter-affidavit is filed on behalf of the Board and it is stated that the Board had conducted the STET 2019, which had been conducted for the different subject categories, facilitating for the appointment of Teachers in the Secondary/ Higher Secondary Schools of the State of Bihar; the same had been conducted upon such terms and conditions as laid down by the respective Education Department of the Government of Bihar from time to time.

15. It is further stated that in the year 2019, an advertisement bearing Adv. No. PR 373/2019 had been duly published by the Board, strictly adhering to the terms of the guideline/directions issued in this regard inviting applications from the interested eligible candidates for participating in the said STET 2019. The para/clause-11 of the said advertisement contains the details regarding the qualifying marks i.e. the minimum required marks for being declared as qualified under different category, it is apparent that the claim by the petitioner is contrary to the conditions provided under clause 11 of the advertisement as there stands no condition fixing the cut off marks had been provided either for EWS or EWS male/female category candidate, which clearly nullify the claim of the petitioner raised in this regard.

16. The result of the petitioner had been declared as 'Not



Qualified’ because of his normalized score as 71.00 out of total marks 150 i.e. 47.33% which was below to the required 50% marks under the EWS category. The minimum qualifying marks for EWS category in the subject code 103, i.e. subject Sanskrit was 50% i.e. 75 marks out of total 150 marks. In the STET 2019, the total no. of qualified candidates under different categories of Sanskrit Subject against the total available vacancy of 1055 was 1779; wherein the vacancy categorized under EWS category was 105 in number under the said total vacancy of 1055; the relevant summary details of the result under EWS category i.e. total 105 vacancy is hereby given under tabular form for perusal:-

Catego ry	Vacancy details	Row Labels	Number of Vacancy	Candidate Count	Total Qualified Candidat e count	Highest Marks obtained	Lowest Marks obtained
EWS	105	EWS- Open	68	63	68	110	101
		EWS- DA		4		97	77
		EWS- FF		1		84	---
		EWS- Female	37	27	37	94	75
		EWS- Male		10		101	100
Total			105	105	105		

17. He further submitted that from perusal of the aforesaid table relating to the category wise details of the marks obtained by the candidates under EWS category in the said subject of Sanskrit, it is evident that the lowest cut off marks of 75 marks obtained by a candidate under EWS Female category had been taken into



consideration for publishing under the said STET 2019, whereas it is evident that the petitioner with 71 marks failed to obtain minimum qualifying marks.

18. A counter affidavit is also filed on behalf of the respondent no.3 in which he has stated that from perusal of the writ petition, it transpires that the writ petition has been filed by the petitioner inter alia for declaring him as 'qualified' in the STET 2019 examination in the EWS category as he has secured 71 out of 150 marks in the said examination. Further he pointed out the contention of the petitioner that he has obtained more than 45% marks which was the prescribed cut-off marks for the reserved category candidates and the petitioner being a candidate of EWS category is accordingly, qualified.

19. It is further submitted that the matter is related to Advertisement no.PR 373/2019 (Annexure-1 to the writ application) in which the qualifying cut-off marks has been duly prescribed at para/clause-11 of the said advertisement. It mentions that for General category candidates the qualifying cut-off marks shall be 50% whereas for the reserved category candidates, the qualifying cut-off marks shall be 45%.

20. It is further submitted that this examination was not of the nature of appointment examination and the appointment was done



upon counselling by the concerned Niyojan Office. It transpires that 10% reservation prescribed for EWS category candidates is against reservation of seats in vacancies of posts which is not under challenge in the instant writ petition. The petitioner's grievance is related to relaxation of cut-off marks in the said examination. He submitted that the EWS category is carved out of the General category and unlike the reserved category namely, SC/ST/OBC/EBC/Physically Disabled, there is no provision prescribed for relaxation of cut-off marks.

21. That in the above circumstances, although the qualifying cut-off marks have been fixed as different from the guideline vide memo no.2374 dated 16.07.2007 as a policy decision, since the same is not strictly applicable in the STET 2019 as it is an examination being conducted by BSEB, there exists a basis for reduction of cut-off marks for the reserved category candidates which is not applicable to the EWS category candidates. Learned counsel has also enclosed the policy decision of the Government as Annexure-R/1 and R/2 of the counter affidavit filed on behalf of respondent no.3.

22. In reply to the counter-affidavit of respondent no.4 to 6, learned counsel for the petitioner submitted that the Adv. No.PR 373/2019 published by the Board inviting application for STET



examination for preparation of panel valid for 7 years for appointment of Secondary/ Senior Secondary School Teachers including Sanskrit Subject. That STET 2019 examination was not limited for appointment of 1054 Sanskrit subject vacancy of the year 2019 which was not filled up on the basis of the STET 2019 result but that was filled up later on with more vacancy (4375 post) on the recommendation of the Bihar Public Service Commission by conducting a written examination of the candidates who qualified in STET examination.

23. He further submitted that the Respondent Authorities have not supplied the correct and complete picture of the STET 2019 result. The result of a candidate, annexed as Annexure-9 series of the writ application shows that a candidate UR Differently abled (DA) has got 68.51 marks and he was qualified but in the counter affidavit lowest marks in UR(DA) is 70 which falsifies the statement of the respondents no.4 to 6. Likewise a female EWS(DA) has got 69.09 marks out of 150 was qualified but in the counter affidavit lowest marks of the qualified female is 75 which also falsifies the statement made in the counter affidavit. Another UR candidate namely, Brahmchari Pandey got 77 marks out of 150 marks got qualified but in the counter affidavit lowest marks of qualified UR candidate is 110 which also falsifies the statement



of this respect in the counter affidavit. This shows that, STET 2019 result was published in accordance with para/ clause 11 of the Advertisement No.PR 373/2019 i.e. all General Candidates who got 50% marks were declared qualified and reserved category candidates including EWS who got 45% marks were declared qualified.

24. I have heard the parties at length. It is very clear that the petitioner has obtained 71 out of 150 marks i.e. 47.33% in the STET Examination, 2019, and as per the para/ clause 11 of the Adv. No.PR 373/2019, the Board has cited the minimum qualifying marks for General Category as 50% and 45% for all the reserved category namely, SC/ST/OBC/EBC/Physically Disabled. Further for the candidates falling under the EWS category, it is nowhere mentioned in the said Advertisement that what is the minimum qualifying marks for them. And as per the counter affidavit filed on behalf of the Board, the highest marks obtained under the EWS Male Category was 101 and lowest marks obtained under the said category was 100 but as per the result of the petitioner, the total marks obtained by him is 71.

25. Subsequently, the contention raised by the petitioner in the above-mentioned Para No.23, and upon reviewing the records provided by respondents No.4-6 as Annexure-R/C of the counter



affidavit, it is evident from the said records that each subject mentioned in Advt. No. PR 373/2019 has a separate, specific subject-wise result summary published by the concerned respondent authority. The case at hand relates to the Sanskrit subject, so this Court will only consider the records and other related documents pertaining to the Sanskrit subject. However, the petitioner's claims about a few students- one who scored 68.51 marks [Social Science subject under UR (DA) category] and another who scored 69.09 marks [Science subject under EWS (DA) category] are declared qualified by the respondent authority, due to the reason that both the candidates falls under the category of 45% as mentioned in para/clause 11 of the Advertisement No.- PR 373/2019. Further, the concerned respondent has published separate cut off marks for each subject. Moreover, the petitioner alleged that another candidate, namely, Brahmchari Pandey (Sanskrit subject), who scored 77 marks out of 150 and falls under the unreserved (UR) category was declared qualified but did not make into the merit list. Regarding this contention, I find upon reviewing the record that for the UR category, the highest and lowest cut-off marks were 136 and 110, respectively. Brahmchari Pandey was declared qualified based on para/clause 11 of Advt. No.PR 373/2019, which states that a minimum of 50% marks is



required to qualify under the unreserved category. Therefore, Brahmchari Pandey was qualified but did not meet the cut-off to be included in the merit list of the unreserved category. Thus, this Court does not accept the petitioner’s contention.

26. Considering the facts and circumstances of the case and upon perusal of the records, as the petitioner has not obtained sufficient marks to get qualified in the STET Examination-2019, therefore, I find no merit in the present writ application and accordingly, it is dismissed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	20.08.2024
Uploading Date	31.08.2024
Transmission Date	NA

