

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1088 of 2023

In

Civil Writ Jurisdiction Case No.6502 of 2020

Vinod Pratap Narayan, Son of Shri Ram Awadhesh Roy, Resident of No. 18 II B, Rajiv Nagar, P.S.- Rajiv Nagar, District- Patna.

... .. Appellant/s

Versus

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

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhinav Srivastava, Advocate
For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Gyan Shankar, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-08-2024

Re: I.A. No. 1 of 2024

The Interlocutory Application has been filed for condoning the delay of 23 days in filing the memo of appeal.

2. Having gone through the affidavit, we are satisfied that there are sufficient grounds shown to condone the delay.

3. As such, we condone the delay in filing the memo of appeal and allow the Interlocutory Application.

Re: LPA No. 1088 of 2023



4. The appellant was aggrieved with his ouster from service as a Block Teacher from the Utakramit Madhya Vidyalaya ('UMV School' for short), Bhawani Tola, Maner, for reason of he having not qualified in the Diploma in Elementary Education Test carried out by the Bihar School Examination Board (for short 'the Board'). The appellant's contention is two fold; that the appellant had obtained sufficient marks to pass the examination as per the scrutiny conducted on his request and that, if at all he had not passed, the non-communication of the scrutiny result having prejudiced him insofar as participation in the supplementary examination having been frustrated.

5. The learned Single Judge found that the person who was appointed to carry out scrutiny of the answer-paper; which can only be with respect to totalling, had committed serious discrepancy in having changed the marks which also resulted in the registration of a First Information Report and blacklisting of the Totalar.

6. We heard Shri Abhinav Srivastava, learned Counsel appearing for the appellant and learned Senior Counsel Shri P.K. Shahi appearing for the Board.

7. The admitted position is that the appellant was appointed as a Prakhanda Teacher, UMV School, and since he



was an untrained teacher, as per the regulations of the National Council for Teacher Education, he was required to clear the Diploma in Elementary Education Course. He appeared for the Course in the Session 2015-17 and took the final examination in October, 2018. The result of the examination was declared on 19.01.2019 and he failed in Pedagogy in Math paper having scored only 26 out of 70 marks; the pass marks prescribed being 32. There is a scrutiny provided under the Regulations of 1964 which was applied for but no communication was received. A supplementary examination for the failed students was held on 05.03.2019 which the appellant did not participate in, expecting a favourable result in the scrutiny. The appellant had anxiously waited for the result of the scrutiny and not receiving any response applied under the Right to Information Act, upon which he was issued with an answer-sheet wherein clearly on totaling he had been given 32 marks.

8. We have perused the records of the case and we find that the Regulation of 1964 clearly indicated that scrutiny will not imply re-examination of the answer-books of a candidate and the procedure is only to ensure that there is no mistake caused in totalling of the marks assigned to the candidate in each individual question or in carrying them over



or any omission to mark a question or part thereof. The answer-sheet which was obtained by the appellant is produced along with the writ petition as Annexure-4. Obviously, from the first page of the answer-sheet wherein the marks were carried over for each answer and totaled, answer to Question Nos. 3 and 8 are indicated to have been granted 4 marks each which allegedly was carried over as only one mark.

9. The defence of the Board is that actually the grant was only of one mark which was interpolated by the Totalar. The learned Senior Counsel appearing for the Board points out that it is very clear from the marks in the answer-sheet that there is an interpolation made in so far as Question Nos. 3 and 8 converting the '1' mark awarded to '4'.

10. We have seen the marks awarded in the answer-sheet. Question No. 8 in Page 8 of the answer-sheet clearly indicates the interpolation made converting '1' to '4'. In so far as answer to Question No.3 also it is more cleverly made but a closer observation would indicate that it is also an interpolation. In fact, we looked at the manner in which the original examiner had written '4'. We see that answers to Question Nos. 5 and 13 had 4 marks each. On a brief look at Page No. 6 where answer to Question No. 5 is evaluated and Page 17 where answer to



Question No. 13 is evaluated; both have similarity in the manner in which the number '4' has been written. This does not tally with the '4' either in answer to Question No. 3 or 8. Both of which are also differently written which makes it clear that there is an interpolation. We find absolutely no reason to interfere with the judgment of the learned Single Judge.

11. One other contention the learned Counsel for the appellant had was that he was prejudiced insofar as he had not participated in the supplementary examination since the scrutiny result had not been communicated to him.

12. We cannot but observe that the appellant had been issued with the original marks, which clearly indicated that he failed. He had applied for scrutiny and even if the result was not communicated to him or the respondent Board had not intimated the result of scrutiny, when the supplementary examination was scheduled, he should have necessarily appeared. If in scrutiny he had passed, necessarily the result of the original examination would have been taken and otherwise he could have availed of the marks in the supplementary examination. It cannot be said that the Board's action had prejudiced the appellant, since it was incumbent upon him to have applied and participated in the supplementary examination, without waiting for the scrutiny



result. If the scrutiny result had been in his favour, definitely he could have been continued and otherwise he would have availed of the marks in the supplementary examination. The scrutiny having been made in an illegal manner, the same was interfered with by the Board; which action we find to be proper. There is absolutely no reason why the appellant be given the benefit of prejudice; since his own default of not participating in the supplementary examination has worked against him.

13. We reject the appeal leaving the parties to suffer their respective costs.

14. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

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