

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23964 of 2019

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Kumar Kishlay, Son of Janki Nandan Sharma, Resident of Village- Chhapra
Megh, P.S. Sakara, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through The Secretary, Human Resources Dept. New Secretariate, Bailey Road, Patna.
2. The Director, Primary , Secondary and Adult Education, New Secretariat, Bailey Road, Patna.
3. The Chairman, Bihar School Examination Board, Patna- 17.
4. The Examination Controller, Bihar School Examination Board, Patna- 17.
5. The Secretary, Bihar School Examination Board, Patna- 17.
6. The Principal, District Institute of Education and Training (DIET), Rambagh, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anshu Dhar Sharma, Adv Mrs. Namita Sharma, Adv
For the State	:	Mr. Prabhakar Jha (Gp22)
For the BSEB	:	Mr. Lalit Kishore, Sr. Adv Mr. Gyan Shankar, Adv Mrs. Binita Singh, Adv Mr. Girijish Kumar, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV

Date : 07-10-2024

Heard learned counsels for the parties.

2. The present writ application has been filed on behalf of
the petitioner for the following reliefs:-

*(i) For commanding and directing the respondent
authorities and directing the respondent authorities
for re-evaluation/ retotalling of the marks obtained
in Subject Code F-9, Pedagogy of Language
(Hindi) in 1st year where the petitioner has been
awarded 31 marks in external examination and*



declared fail by lack of one mark.

(ii) For any other relief(s) for which the petitioner be found entitled.

3. Learned counsel for the petitioner submits that the petitioner passed matriculation examination in the year 1995 with 71% marks, I.Sc. in 1997 with about 57% marks and B.Sc. (Chemistry Hons.) in 2004-07 with 62% marks. Then he was duly appointed as Prakhanda Teacher under Sakara Block on 20.02.2014 and he joined as Prakhanda Teacher in Government Middle School, Chhousina on 24.02.2014.

4. The petitioner on paid educational leave got admitted in D.Ed. Course at DIET, Rambagh, Muzaffarpur in the Session 2016-18 and appeared at Annual Examinations bearing Roll Code 7111 and Roll Number 0155. (Annexure-1 of the writ application).

5. He further submits that in all other subjects, petitioner performed well except subject code F-9, Pedagogy of language (Hindi) in 1st year where he got 31 marks and was declared fail by one mark, although he has performed well in that subject. (Annexure-2 of the writ application).

6. Thereafter, on 17.08.2019, he applied before the Secretary, Bihar School Examination Board (hereinafter referred to as the "Board"), Patna with a forwarding through the



Principal, DIET, Rambagh, Muzaffarpur for re-evaluation/ retotalling of his marks of 1st year in Hindi (Subject Code F-9) but of no avail as yet. (Annexure-3 series of the writ application).

7. He lastly submits that petitioner had performed well in the examination and he has been declared fail in one subject by one mark which is either a mechanical or a human error.

8. A counter affidavit is filed on behalf of the Board and it is stated that as per the communication dated 03.12.2019, the Court had been pleased to query with regard to the provision of re-totalling of marks so provided in the answer book of subjects of D.El.Ed. course examination papers. It is submitted that only with regard to the theory subject of the second year of the D.El.Ed curriculum that there is provision for scrutiny under the conditions provided vide Advertisement No.P.R.48/2019. So far as the internal and theoretical i.e. external subjects of the first year D.El.Ed curriculum are concerned, there is no provision of scrutiny. (AnnexureA of the counter affidavit filed on behalf of the respondent no.3 to 5). It is after processing of subject wise marks of first year internal and theoretical subjects and of the second year marks of internal subject, so provided by the concerned institution on the OMR based marks foil that the



result was/is published. Petitioner had been provided 31 marks in F-9 (i.e. theoretical subject of first year) in the OMR based marks foil, and accordingly the result of the petitioner was published.

9. He further submits that keeping in view the interest of the students at large, that issue of correction in the result of D.El.Ed. Examination as had been raised by different institutional heads, requesting for correction in result of D.El.Ed. Examination, that the matter had been reconsidered at the Board in its meeting dated 20.05.2019 in which it had been resolved to consider the claim for correction of such candidates and publish the corrected result after going through and considering the relevant documents i.e. the pre-printed OMR based marks foil and original tabulation register of the college concerned, calling it from the concerned institutions.

10. He further submits that after the decision of the Board dated 20.05.2019, that the matter had been apprised to the Education Department by the Board vide letter bearing no. T.T.Pre. 1238/2019 dated 23.05.2019 and it is accordingly thereafter that a meeting had been called in this regard by the Director, Research and Training, Education Department, who after verifying the original tabulation register vide letter no.335



dated 20.06.2019 had informed that the petitioner had obtained 31 marks in F-9 and it was on the said basis that the claim of the petitioner for correction of result has been rejected.

11. In the aforesaid regard, an intimation letter had also been sent to the concerned Principal vide letter no.T.T. Pre. 1237 dated 30.11.2019. (Annexure-B of the counter affidavit filed on behalf of the respondent nos. 3 to 5).

12. A counter affidavit is also filed on behalf of the respondent no.6. It is stated that the conduct of examination and publication of result or re-evaluation of any paper is within the powers and functions of the Board. The Board has conducted the examination of the aforesaid course in which the petitioner also participated.

13. It is further stated that it is evident from the mark sheet appended as Annexure-2 of the writ application that the petitioner did not get the minimum qualification marks in the subject code F-9, Pedagogy of language (Hindi). Hence, he was declared fail by the Board.

14. Having regards to the facts and circumstances of the case, since the Board has declared result on the basis of OMR based marks foil and original tabulation register of the college concerned and it is an admitted fact that the Committee was



constituted by the Board and the matter was apprised to the Education Department by the Board vide letter bearing no. T.T.Pre. 1238/2019 dated 23.05.2019 and thereafter that a meeting had been called in this regard by the Director, Research and Training, Education Department, who after verifying the original tabulation register vide letter no.335 dated 20.06.2019 had informed that the petitioner had obtained 31 marks in F-9 and he was declared fail.

15. Considering the arguments advanced on behalf of the parties and from the perusal of materials available on record, I do not find any merit in the present writ application. It is dismissed, accordingly.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	23.09.2024
Uploading Date	07.10.2024
Transmission Date	NA

