

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7615 of 2024**

Prabhash Kumar Son of Ram Sagar Paswan Resident of Village Kulharia, P.S.  
Babubahri, District Madhubani, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Secretary, General Administration Department, Government of Bihar, Patna.
4. The Bihar Public Service Commission through its Chairman, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna 800001.
5. The Controller of Examination, Bihar Public Service Commission through its Chairman, 15 Jawahar Lal Nehru Marg, Bailey Road, Patna 800001.

... .. Respondent/s

**Appearance :**

|                      |   |                                                                              |
|----------------------|---|------------------------------------------------------------------------------|
| For the Petitioner/s | : | Mr.Avinash Shekhar, Adv<br>Ms. Simran Kumar, Adv                             |
| For the Respondent/s | : | AC to GP-2<br>Mr. Sanjay Pandey, Advocate<br>Mr. Nishant Kumar Jha, Advocate |

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL JUDGMENT**

**Date : 17-04-2025**

1. Heard learned counsel for the petitioner, learned AC to GP-2 and the learned counsel appearing on behalf of the BPSC, Shri Sanjay Pandey.

2. Learned counsel appearing on behalf of the petitioner submits that the instant writ application has been filed for quashing the notice dated 29-12-2023 (Annexure-7) issued by the Respondent No. 5, whereby the petitioner has been permanently debarred from appearing in any examination on the



alleged ground of being involved in impersonation during the Teacher Competitive Examination conducted on 8-12-2023 in pursuance of an Advertisement No. 27 of 2023. Further to quash the Memo No. 5154 dated 14-3-2024 issued by the Respondent No. 5 (Annexure-9), whereby the list of candidates (including the petitioner), who have been debarred on alleged ground of being involved in impersonation during the Teacher Competitive Examination conducted in pursuance of Advertisement No. 27 of 2023 has been communicated to various public service commissions across the country, further to direct the Bihar Public Service Commission (hereinafter referred to as "BPSC") to remove the notice dated 29-12-2023 from its official website and also to publish a necessary correction notice insofar as petitioner is concerned apart from other ancillary reliefs.

3. The learned counsel appearing on behalf of the petitioner submits that the BPSC issued Advertisement No. 27 of 2023 dated 4-11-2023 (Annexure-2) for recruitment of 69706 teachers under the Education Department and 916 teachers under the backward class and extremely backward class under the Welfare Department, Government of Bihar. The petitioner being eligible in terms of the advertisement registered with the portal of BPSC with Registration No. 202327361685 and filled



up the form for participating in the selection process under both the schools as Mathematics teacher on 12-11-2023 (Annexure-3). The date of examination was notified by the BPSC on 8-12-2023 and the petitioner was issued admit card bearing Roll No. 528914 (Annexure 4). The petitioner was allotted Examination Center Code No. DAR2118, Raj High School, Darbhanga. The petitioner on 8-12-2023 reached the center where his biometric and photographs were taken and thus was permitted to participate in the examination. The petitioner was given OMR Sheet No. 4094884 (Annexure 5), as would manifest from the OMR sheet downloaded from the website of the BPSC. It is next submitted that the result was published on 27-11-2023 and the petitioner secured 40 marks, thus was not selected for the post of Mathematics teacher, as would manifest from print out obtained from the website of the BPSC (Annexure-6).

4. The learned counsel for the petitioner next submits that petitioner on 29-12-2023 was shocked to know from social media website that 49 candidates have been debarred on grounds of indulging in impersonation in the examination, accordingly the petitioner visited the website of the BPSC and saw that Respondent No. 5 has issued notice dated 29-12-2023, whereby petitioner was permanently debarred from appearing in



any examination on the grounds that he indulged in impersonation in the examination conducted on 8-12-2023.

5. The learned counsel appearing on behalf of the petitioner submits that notice dated 29-12-2023 was penal in nature and was issued behind the back of the petitioner, without giving him any opportunity to explain his side of the case, i.e., the notice dated 29-12-2023 was issued in complete breach of the principles of natural justice, moreso when the same entailed penal/civil consequences.

6. It is submitted that the petitioner on 4-1-2024 submitted a representation dated 4-1-2024 (Annexure-8 series) before the Respondent No. 5 *via* post and e-mail stating therein that the biometrics and photographs of the petitioner were taken at the examination centre and he had not indulged in any malpractice, but the petitioner did not receive any reply, rather was served with Memo No. 5154 dated 14-3-2024 (Annexure-9), whereby list of candidates, including the petitioner, who were debarred on grounds of being involved in impersonation during the Teacher Competitive Examination conducted in pursuance of Advertisement No. 27 of 2023, was communicated to various public service commissions across the country. It is next submitted that the petitioner himself had participated in the



examination and the said fact gets supported from the signature of the petitioner on the application form, admit card and OMR sheet, which are the same, thus petitioner was allowed to participate in the examination without any objection.

7. It is also submitted that from perusal of the notice dated 29-12-2023 (Annexure-7), it would manifest that the same does not even remotely suggest that before issuing the said notice dated 29-12-2023, the petitioner was given an opportunity of being heard or any explanation was sought from him with regard to the allegation based on which he was debarred from participating in any examination. Similarly the Memo dated 14-3-2024 (Annexure-9) also does not even remotely suggest that the BPSC before communicating the name of the candidates, who were debarred from participating in any examination in the future, including the petitioner, to different service commissions across the country, any opportunity was given to the petitioner to explain his side of the case.

8. The learned counsel for the petitioner thus submits that the action of the BPSC in debarring the petitioner from appearing in any examination in future entails a very severe penal consequences, as it has the effect of jeopardizing the entire career of the petitioner. It is next submitted that the BPSC



is a constitutional body and being a constitutional body, the manner in which the authorities of the BPSC have acted amply demonstrates that they do not even have the basic knowledge of the law that whenever any action is taken to the prejudice of someone, the minimum requirement is of issuing a show-cause seeking explanation, but then the notice dated 29-12-2023 (Annexure-7) and memo dated 14-3-2024 (Annexure-9) speak for themselves that the same were issued behind the back of the petitioner.

**9.** It is also submitted that it is not the case of the BPSC that any student at the examination center was caught sitting in the examination in place of the petitioner. It is further submitted that the petitioner did not qualify in the examination as he secured only 40 marks, as such, it cannot be construed that petitioner derived any benefit out of the examination.

**10.** The learned counsel appearing on behalf of the petitioner next submits that today he has received a counter-affidavit filed on behalf of the BPSC sworn by the Deputy Secretary, BPSC. It is further submitted that the counter-affidavit does not even remotely suggest that before issuing the notice dated 29-12-2023 (Annexure-7) and the memo dated 14-3-2024 (Annexure-9), any opportunity of hearing was given to



the petitioner to explain his side of the case.

**11.** Learned counsel for the petitioner next submits that from perusal of para-11 of the counter-affidavit filed on behalf of the BPSC, it would manifest that the same records - that it is relevant to state herein that it has clearly been mentioned in the admit card in clause (8) under the heading 'instruction' that all the candidates have to undergo for biometric and facial recognition under the said examination. The candidate will come out of the examination hall only after completion of the said process otherwise the decision of the Commission cancelling their candidature will be final. Clause (7) of the admit card under heading 'instruction' states that if any candidate is found to be involved in any kind of malpractice then action will be taken under Bihar Conduct of Examination Act 1981 and the candidate may also be debarred from appearing in the Bihar Public Service Commission Examination.

**12.** The learned counsel for the petitioner submits that it absolutely does not stand to reason that if what has been pleaded at para-11 of the counter affidavit is true then whether the procedure prescribed for taking action in terms of the Bihar Conduct of Examination Act 1981 was resorted to by the BPSC or not while issuing the aforesaid notice and memo, which are



impugned in the instant writ application, on which the learned counsel appearing on behalf of the BPSC is not in a position to reply the said submission of the learned counsel appearing on behalf of the petitioner.

**13.** The learned counsel appearing on behalf of the petitioner further submits that the notice and the memo impugned in the instant writ application, were not issued in terms of Bihar Conduct of Examination Act 1981, further Clause (7) of the admit card recorded that any candidate found indulging in any kind of malpractice would be debarred from appearing in examination conducted by the Bihar Public Service Commission, but then what authority the Commission had to issue the memo dated 14-3-2024 (Annexure-9) communicating to all the Commissions across the country, informing that the candidates including the petitioner have been debarred from appearing in any examination based on the allegation that they were involved in impersonation, which amply demonstrates that the BPSC was acting in a vindictive manner.

**14.** At this stage, the learned counsel appearing on behalf of the BPSC placing reliance on paragraph-10 of the counter affidavit submits that it has been specifically pleaded that the examination center of the petitioner was at Raj High



School, Darbhanga, it has been informed to the Commission by the agency that the petitioner left the center before the biometric and photography.

**15.** The said submission of the learned counsel appearing on behalf of the BPSC is vehemently rebutted by the learned counsel appearing on behalf of the petitioner and submits that even presuming what has been pleaded at paragraph-10 is correct without admitting, then whether the BPSC merely based on an information provided by an agency, could have issued the aforesaid notice and the memo, which are impugned in the instant writ application, or the BPSC ought to have sought an explanation from the petitioner with regard to the allegations alleged by the agency, if any, as neither the name of the agency nor the name of the person, who informed the BPSC that petitioner left the examination center without his biometric and photography, has been disclosed in the counter affidavit.

**16.** The learned counsel for the petitioner placing reliance on Annexure-P/4 to the writ application submits that the same is the admit card of the petitioner and from perusal of the same, it would manifest that beside the QR code there is a hologram pasted on the admit card and the said hologram is



pasted only after the photograph of a candidate is taken before permitting him to appear in the examination, as such, the contention of the BPSC in its counter-affidavit that photograph of the petitioner was not taken and petitioner left the examination center without having his biometric and photograph taken, is nothing but a cover up to cover the misdeeds of the authorities of the BPSC.

**17.** The learned counsel for the petitioner further raises a very pertinent question and submits that if what is being contended by the BPSC is correct that petitioner without giving his photographs and biometrics left the examination center and the same came to the knowledge of the agency, then why the candidature of the petitioner was not rejected/cancelled then and there, why his result was published, which amply demonstrates the falsity of the allegation based on which the instant notice and memo impugned have been issued.

**18.** After hearing the learned counsel for the parties, the Court is in complete agreement with the submissions made by the learned counsel appearing on behalf of the petitioner that the impugned notice and the memo have been issued in complete breach of the principles of natural justice, as the petitioner was not given any opportunity to explain his side of



the case when the impugned notice and memo are having severe penal consequences as the petitioner has been debarred from appearing in any future examinations and the said debarment has been communicated to various Commissions across the country, which is adversely affecting the petitioner as he is not in a position to appear in any of the examinations conducted by any of the Commissions across the country. The Court is completely dissatisfied with the plea of the Commission taken in the counter-affidavit and completely fails to appreciate the stand of the BPSC that merely based on an information by an agency, the aforesaid notice and the memo were issued behind the back of the petitioner.

**19.** Having regard to the facts and circumstances of the case, the notice dated 29-12-2023 (Annexure-7) issued by the Respondent No. 5 and the Memo No. 5154 dated 14-3-2024 (Annexure-9) issued by the Respondent No. 5, are hereby quashed.

**20.** It is made clear that the aforesaid notice and the memo have been quashed only with respect to the petitioner. It goes without saying that in view of the fact that the notice dated 29-12-2023 (Annexure-7) and the Memo dated 14-3-2024 (Annexure-9) have been quashed as such the BPSC will



immediately remove the notice dated 29-12-2023 from its website with respect to the petitioner, further the BPSC shall also communicate the same to different Commissions across the country to which the aforesaid notice and memo have been sent.

(Satyavrat Verma, J)

SUMIT/-

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| AFR/NAFR          | AFR       |
| CAV DATE          |           |
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