

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.564 of 2025

In
Civil Writ Jurisdiction Case No.13746 of 2024

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1. Bihar School Examination Board, Patna represented through its Secretary.
 2. The Director (Academic), Bihar School Examination Board, Patna.
 3. The Joint Secretary (OFSS), Bihar School Examination Board, Patna.

... .. Appellant/s

Versus

1. Asharfi Kuer Ramratan Rai College @ Asharfi Kuer Ramratan Rai Inter College (Code 34009) Kotwal, District-East Champaran, represented by its Principal Smt. Sima Smriti, Female, aged about 55 years, W/o Shri Sanjay Kumar, R/o H-11, Fatehpur House, Kumar man Sinha Path, Chitragupta Nagar, Teachers Colony, Kankarbagh, Patna-800020.
2. Smt. Sima Smriti, W/o Shri Sanjay Kumar, R/o H-11, Fatehpur House, Kumar man Sinha Path, Chitragupta Nagar, Teachers Colony, Kankarbagh, Patna-800020.
3. The State of Bihar through its Additional Chief Secretary, Education Department, Government of Bihar, New Secretariat, Patna-800015.
4. The Additional Chief Secretary, Education Department, Government of Bihar, New Secretariat, Patna-800015.
5. The Director, Higher Education, Education Department, Government of Bihar, New Secretariat, Patna-800015.
6. The District Education Officer, East Champaran at Motihari.
7. The Circle Officer, Kotwa, District-East Champaran.
8. Baba Saheb Bhim Rao Ambedkar Bihar University Muzaffarpur represented through its Registrar.
9. Asharfi Kuer Ramratan Rai Degree College, Kotwa Road, District East Champaran represented through its Principal Shri Diwakar Kumar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. P.K. Shahi, Sr. Advocate
Mr. Satyabir Bharti, Sr. Advocate



		Mr. Abhishek Anand, Advocate
		Ms. Kanupriya, Advocate
For the State	:	Mr. Sarvesh Kumar Singh, AAG- 13
For Respondent Nos. 1 & 2	:	Mr. P.N. Shahi, Sr. Advocate
		Mr. Ram Vinay Sharma, Advocate
		Mr. Amit Anand, Advocate
For the BRAU	:	Mr. Bindhyachal Rai, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 15-05-2025

All the defects pointed out by the Stamp Reporter are ignored for the present.

2. We have heard Mr. P.K. Shahi, the learned Senior Advocate for the appellants/Bihar School Examination Board and Mr. P.N. Shahi, the learned Senior Advocate for the respondents/college.

3. By the impugned interim order dated 08.05.2025, the learned Single Judge has directed the appellants/Bihar School Examination Board (*in short the "Board"*) to open the access to OFSS portal for the college in question for one week to enable the college to



admit students in the intermediate course.

4. This has been challenged by the Board on several grounds, even though the order is only by way of an interim measure. The first of the grounds for challenging it is that the facts necessary for the disposal of the case were not laid before the learned Single Judge for which the Board also is partly responsible because no counter affidavit was filed, despite the asking of the Court.

5. Nonetheless, the facts would reveal, it has been contended, that the respondents/college had been continuing as a degree college, in which, there could not be an inter-college from the year 2024. In the earlier regime, in the degree colleges affiliated to the Universities, +2 teaching could have been continued. However, later, with the BSEB taking over all inter-colleges, it was clearly stipulated that an inter-college cannot be permitted to run in a degree college.

6. A document has been brought on record by



the appellants/Board indicating that the Director of the BSEB, *vide* his letter dated 28.03.2024, intimated the Principal of the college that no inter classes could be held along with the degree classes in any institution and since both, *viz.*, degree and inter classes, are being run in Asharfi Kuer Ramratan Rai Degree College, the college has been put in the list where there would be no access to OFSS portal for admitting students in +2.

7. A window also was given to all such institutions for recording objections. Thereafter, the objections were dealt with by a specially constituted committee comprising five members and in the case of the college in question, it was found that the inter college was being run from the premises of the degree college, which had already been stopped from 2024.

8. With this background fact, Mr. P.K. Shahi, the learned Senior Advocate for the Board contends that the learned Single Judge ought not to have directed for opening the access of the OFSS portal for the college in



question without the order of the Board discontinuing the +2 education in the college in question having been questioned and interfered.

9. It has further been submitted that these facts were in the knowledge of the respondents, which should have been brought on record and in that case, no interim order would have been passed.

10. The closure of access to OFSS portal in all such institutions where +2 classes are being held in degree colleges was for the purpose of stopping all institutions across the State of Bihar in admitting students in +2 which, otherwise, would have put the career of such students in peril later.

11. As opposed to the afore-noted contention, Mr. P.N. Shahi, the learned Senior Advocate has submitted that the college in question had been running as an inter college since 1983 and only recently, the Principal, fraudulently got a degree college opened and affiliated it with Bhim Rao Ambedkar Bihar University.



12. This objection was raised by the respondents/college, but the same was never heeded to.

13. Apart from this, it has been submitted that when a presentation of the infrastructure and the faculty was made by the respondents/college before the Board, the Board had acknowledged that the inter college was being run properly. In fact, financial assistance from the Government also was assured by the Board. The Committee's report also appears to be primarily based on the opinion given by the Circle Officer, which report is highly debatable.

14. It has further been submitted that these facts, as stated by the Board in this appeal, were brought only by way of an interlocutory application, a copy of which was served on the respondents/college only a day before yesterday.

15. In any view of the matter, in the event of the Board having notified that the respondents/college cannot run +2 classes and such notification has not been



questioned or interfered with, we are satisfied that the operation of the interim order passed by the learned Single Judge requires to be stayed.

16. Mr. Shahi, thereafter, submitted that instead of interfering with the order directing the OFSS portal to be open for a week for the college in question, the Court should consider the prayer of the respondents/college that any admission taken in the meanwhile shall be subject to the outcome of the writ petition.

17. Normally, such a prayer could have been acceded to, but considering the fact that in case it is found factually that degree college and +2 college were being run from the same premises, it would only be disadvantageous to unsuspecting students who take admission in this college, whose interest we are under an obligation to guard and protect.

18. Considering this aspect of the matter, we reject such a prayer and order for stay of the operation of



the impugned order dated 08.05.2025 passed in C.W.J.C. No. 13746 of 2024, directing the Board to open the OFSS portal for a week.

19. However, these issues are required to be wrested before the learned Single Judge.

20. We, therefore, remand the matter to the learned Single Judge with a request to take into account all the facts and then pass any order. The learned Single Judge would also consider asking the parties to file documents in support of their contentions.

21. We further clarify that any observation made by us in this order is tentative and only for the purposes of dealing with the impugned interim order directing the Board to open the portal, to which we are not agreeable.

22. It appears that the writ petition is slated to be listed before the learned Single Judge on 24th of June, 2025.

23. Let this matter be listed on that day, viz.,



24th of June, 2025, preferably within first ten cases.

24. The appeal stands disposed off accordingly.

25. Interlocutory application/s, if any, also stand disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Praveen-II-

AFR/NAFR	NAFR
CAV DATE	NA
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