

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7185 of 2019

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1. Manoj Kumar S/o Late Bhikhari Prasad, R/o Vill-P.O.-Narkatiya, P.S.-Darpa, District-East Champaran.
 2. Kanchan Kumari D/o Manoj Kumar R/o Vill-P.O.Narkatiya, P.S. Darpa, District East Champaran

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary Education Department Govt. of Bihar, Patna.
2. The Director Primary Education Govt. of Bihar, Patna
3. The Secretary Bihar School Examination Board, Patna.
4. The Registrar Bihar School Examination Board, Patna
5. The Headmaster, BLSSP High School Narkatiya, District East Champaran.

... .. Respondents

Appearance :

For the Petitioners : Ms. Indira Kumari, Advocate
For the State : Mr. Hitesh Suman, AC to SC-13
For the Board : Mr. Ajay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 19-07-2023

Heard learned counsel for the petitioners and learned counsel for the Bihar School Examination Board (hereinafter referred to as the 'Board') as also learned counsel for the State.

2. This writ application has been filed seeking a writ in the nature of Mandamus directing the respondents to pay a monetary compensation to the tune of Rs.10 lakhs to the petitioner no. 2 whose career and further prospect of studies has been marred by two years due to a totally irresponsible conduct of the affairs of the Board in the matter of publication of her result of Secondary School Examination, 2017 (Annual).



Case of the Petitioners

3. Petitioner no. 2 was a student of BLSSP High School, Narkatiya. She appeared in the Secondary School Examination, 2017 (Annual) conducted by the Board. Her result was published showing her 'Fail' in the compulsory paper of Sanskrit. She had otherwise secured 1st Division Marks in total in other four subjects.

4. It is submitted that the petitioner no. 2 who was minor at the relevant time was shocked and suffered humiliation despite the fact that she did not believe that she could have failed in the Sanskrit paper. The petitioner no. 2 filed an application under Right to Information Act and after about one and half year only she was informed that she had obtained '77' marks in Sanskrit paper. Annexure '2' to the writ application is the copy of the information furnished to the petitioner showing her marks question-wise and the total being '77'.

5. A specific statement has been made in paragraph '8' of the writ application that the petitioner no. 2 whose date of birth is 02.11.2001 suffered mentally and she stopped her further education because of this wrong calculation of marks and then the delay of over about one and half year in responding to the request of the petitioner no. 2 which was submitted on the website of the Board with requisite fee amount on 07.04.2017. It is submitted that



the wrong committed by the Board and then the delay in responding to the scrutiny request of the petitioner combinedly ruined the career and future prospect of the petitioner no. 2.

6. Learned counsel for the petitioners submits that in fact because of this shock, the petitioner no. 2 became ill and could not continue with her studies.

7. Reliance has been placed upon a learned Co-ordinate Bench's judgment passed on 02.08.2018 in CWJC No. 6173 of 2018 (**Saurabh Kumar versus The State of Bihar and Others**) to submit that in the said case also, the Board had acted irresponsibly and it was found that the representation of the petitioner was also not responded. After filing of the writ application in this Court, it was found that the petitioner had in fact got '32' marks in 'Alternative English' paper but he had been wrongly awarded '02' marks. Taking note of the sufferance caused to the petitioner in the said case, this Court directed the Board to pay a sum of Rs.1 lakh to the petitioner.

Submission of the Board

8. Learned counsel for the Board does not dispute that the petitioner was wrongly shown 'Fail' and instead of giving her '77' marks in Sanskrit, she has given only '03' marks in the result. A counter affidavit has though been filed but there is no



explanation as to why the Board took so much time in considering the scrutiny request of the petitioner and issuance of fresh marksheet. From the counter affidavit itself it appears that fresh marksheet was issued only on or about 18.12.2018, therefore, at least in two academic sessions, the petitioner no. 2 was deprived of making any application for further studies.

9. Learned counsel for the Board has further informed that the judgment of the learned Co-ordinate Bench of this Court dated 02.08.2018 in CWJC No. 6173 of 2018 was not challenged, though a review application was filed, it was only for a limited purpose and in fact, the Board has complied with the judgment of this Court.

Consideration

10. Having heard learned counsel for the petitioners and learned counsel for the Board as also the State, this Court finds no difficulty in coming to a conclusion that the action of the Board and its officials/ staffs whosoever is there, in recording an incorrect/wrong marks in the result of the petitioner and showing her 'Fail' is a totally irresponsible kind of act which has huge adverse consequence upon the career and future prospect of petitioner no. 2.

11. This Court further finds that immediately after the result was published, the petitioner no. 2 had applied for a scrutiny with requisite fee but that was not attended to in time and it took



about one year eight months to the Board in taking corrective measures. During this period, the petitioner has lost her two academic years and remained suffering from mental agony and humiliation. The act of the Board and its authorities are highly deplorable and are required to be condemned. It also calls upon this Court to award a suitable compensation to the petitioner no. 2 keeping in view the earlier judgment of this Court in similar circumstance.

12. In the totality of the facts and circumstances of the case, considering the fact that the petitioner no. 2 being a girl student who had in fact passed her matriculation examination in 1st division but because of the irresponsible act of the Board and its officials, she has suffered in her life and has lost her valuable time and studies which cannot be otherwise compensated, this Court directs the Board to pay a sum of Rs.2 lakhs to the petitioner no. 2 as compensation and Rs. 25,000/- as cost of litigation.

13. Let this amount be paid to the petitioner no. 2 within one month from today.

14. Learned counsel for the Board has prayed, at this stage, that the Board be granted liberty to inquire into the matter, fix the responsibility upon the erring officials and recover the amount from those officials who are at fault.



15. This Court is of the view that such liberty is always available to an employer who is made to pay a cost or saddled with cost by the Court for irresponsible act or inaction on the part of its officials. Liberty is there.

16. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	20.07.2023
Transmission Date	

