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**(2014) 03 PAT CK 0054**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 3754 of 2014**

Amrish Kumar

APPELLANT

Vs

The State of Bihar

RESPONDENT

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**Date of Decision :** 13-03-2014

**Acts Referred:**

**Citation :** (2014) 2 PLJR 427

**Hon'ble Judges :** Jayanandan Singh, J

**Bench :** Single Bench

**Advocate :** Shashi Bhushah Kumar, Advocate for the Appellant; Pushpanjali Sharma for the State and Mr. Vikas Kumar for the Board, Advocate for the Respondent

**Final Decision :** Allowed

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## Judgement

J.N. Singh, J.—In this case, petitioner has challenged the order of the Examination Controller of the Bihar Combined Entrance Competitive Examination Board dated 15.1.2014, by which his selection for admission in Polytechnic has been cancelled and also the consequent order of the Incharge Principal of Navin Rajkiya Polytechnic, Patna vide memo No. 149 dated 3.2.2014 by which his provisional admission in the said Institution has been cancelled. It is the case of the petitioner that in the competitive examination held by the Board he had appeared and was declared successful. Thereafter, counseling was held on 15.6.2010 for allotment of seat in any Polytechnic for admission. In the counseling, petitioner was directed to write down the passage again which he had written on the OMR Sheet in examination. The Counseling Team found that his handwriting in the passage was different from the handwriting on OMR Sheet. Matter was thereafter referred to Senior Counseling Team. The Senior Counseling Team also concurred with the view of the Counseling Team and hence decided that the case of the petitioner should be referred to the Forensic Science Laboratory for an authoritative opinion with regard to his handwriting on OMR Sheet vis-?-vis his handwriting in his passage written at the time of counseling.

Matter was accordingly referred to the Forensic Science Laboratory.

2. Since the Forensic Science Laboratory was taking some time to submit its report, petitioner submitted an application before the Examination Controller that he may be provisionally allowed admission subject to final report of the Forensic Science Laboratory.

3. Case of the petitioner is that, after he submitted his undertaking, the counseling team allowed him to take provisional admission in Navin Rajkiya Polytechnic, Patna. Petitioner got admission there and pursued his course. It is said that in each semester petitioner passed with flying colours and was consistently a first divisioner with distinction. His result was also published. Meanwhile, a report from the Forensic Science Laboratory was received in the Board in which it was reported that the handwriting on both the documents were different. After the report was received, matter was reported to the Principal of the said Polytechnic, who withheld his final result and issued notice to the petitioner, vide Annexure-6. Petitioner submitted his show cause, vide Annexure-7. In the show cause petitioner asserted that he had in fact appeared in the examination and difference of handwriting was only on account of the fact that on OMR Sheet he had written the passage in fast hand and before the Counseling Team he wrote it slowly. Matter was forwarded to the Examination Controller. The Examination Controller was not satisfied with his show cause and hence he held that this was a case of impersonation and cancelled his candidature, which was communicated to the Principal of the Polytechnic, who cancelled admission of the petitioner.

4. When the case was taken up earlier, learned counsel for the petitioner insisted that petitioner had in fact appeared in the examination and videography was done of the entire examination and the candidates and the video recording may be called for verification as to whether petitioner was in fact present in the Examination Hall or not. Accordingly, learned counsel for the Board was requested by this Court to get the CD, of video recording of the examination and produce before this Court.

5. Learned counsel for the Board produced the C.D. on 6.3.2014. However, as there was no facility for playing the C.D. in Court Room, the Court fixed the matter in Chambers on the next date i.e. 7.3.2014 at 4.10 P.M. Accordingly, matter was taken up on 7.3.2014. Learned counsel for the Board produced the C.D. and with the help of Computer and Projector of the High Court, C.D. was run in presence of learned counsels for the parties and the entire recording was viewed on one of the walls of the Chambers. After viewing the C.D. for quite some time, face of the petitioner appeared in the recording. That portion of the video recording was run again and it was paused when the face of the petitioner was visible. It clearly showed that the petitioner was there in the Examination Hall and with admit card in his hand. This showed that he was in fact appearing in the Examination. Thus, this Court found conclusive proof that the petitioner had appeared in the Examination. Thereafter, matter was adjourned to be placed

under the heading "For Orders" on Monday at 2.15 P.M. to enable learned counsel for the Board to seek further instructions in the matter.

6. Matter has been taken up today. Learned counsel for the Board, on instructions, submits that the authorities of the Board have instructed him to submit before this Court that they treat the official report of Forensic Science Laboratory as conclusive proof of the candidate appearing in the examination and in the counseling. Since, Forensic Science Laboratory had reported that the handwriting of the petitioner was different, it is difficult for the Board to accept that the report was a mistake and in fact petitioner had appeared in the examination. On instructions, he offered that if petitioner so desires, he can be given another opportunity to write some passage before the authorities of the Board, which can again be sent to the Forensic Science Laboratory for examination and for fresh report.

7. This Court does not think it necessary. Since C.D. of the video recording of the examination was played in Chambers in presence of learned counsels for the petitioner, State and the Board and in presence of all of them photograph of the petitioner flashed on the screen with admit card in his hand, it has to be taken as conclusive proof of participation and appearance of the petitioner in the examination. In normal course, report of the Forensic Science Laboratory is accepted as conclusive proof by this Court also in respect of comparison of handwriting and other matters, but it cannot be ruled out that in rarest of rare cases its report may be wrong also. There may be some circumstances due to which handwriting of the petitioner on OMR Sheet and in the passage written before the counseling team may have differed. Stand of the petitioner that on the OMR Sheet he wrote the passage in fast hand due to shortage of time and before the Counseling Team he wrote slowly and carefully, cannot be ruled out. But this all is immaterial in view of the fact that in the C.D. of video recording of the examination, produced by learned counsel for the Board, the picture of the petitioner was seen and identified by this Court as well as learned counsels also, who were present at the time of display of C.D. Hence, it has to be conclusively accepted that the petitioner had himself appeared and participated in the examination. In the circumstances, this Court can only hold that this is one of the rarest of rare cases in which report of the Forensic Science Laboratory is wrong.

8. Hence, in the peculiar facts and circumstances of the case, this Court has no option than to hold that the order of the Examination Controller as contained in memo No. 96/2014 dated 15.1.2014 is erroneous and wrong. The same is accordingly quashed. As a consequence, order of the Incharge Principal of the Polytechnic, vide memo No. 149 dated 3.2.2014, cancelling admission of the petitioner is also quashed. Incharge Principal is directed to publish the result of the petitioner, if not already published, and issue Mark Sheet, Pass Certificate, College Leaving Certificate, etc. to the petitioner on the basis of result in the examination, forthwith.

9. This writ application is accordingly allowed. This Court will like to record its appreciation for the assistance rendered by Mr. Vikas Kumar, learned counsel for the Board in this case, as an Officer of the Court.