
(1998) 12 PAT CK 0063
In the Patna High Court
Case No : C.W.J.C. No. 8509 of 1998

Ankur Anand

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 16-12-1998

Acts Referred:

Citation : (1999) 1 PLJR 233

Hon'ble Judges : Aftab Alam, J

Bench : Single Bench

Advocate : S.S. Asgar Hussain, Devendra Kumar Sinha, Kumar Alok, in C.W.J.C. No. 8509, Ram Balak Mahto, Lalit Kishore, Ashish Anshu, A. Amanuliah, M.K. Pathak, Javed Gaffar Khan and Suresh Kumar, in C.W.J.C. Nos. 8767 and 10041, for the Appellant; P.K. Shahi, R.P. Choudhary, Rajesh Kumar, S. Singh for Respondent No. 2 in C.W.J.C. Nos. 8509, 8767 and 10041, A.K. Singh and Ranjeet Singh, for the Respondent

Judgement

Aftab Alam, J.—There are altogether eight Petitioners before this Court, one each in C.W.J.C. Nos. 8509/98 and 10041/98 and six in C.W.J.C. No. 8767/98. All the eight Petitioners appeared in the Bihar Combined Entrance Competitive Examination, 1998 seeking admission in the different Medical Colleges in the State. In the result published by the Board the Petitioners' names were included in the list of the selected candidates in their, respective reservation categories; some of the Petitioners, in fact, secured fairly high positions in the merit list in their reservation categories.

2. The candidates selected for admission on the basis of the competitive examination were called for counselling. The counselling of the candidates for M.B.B.S. Course was held on September 7, 8 and 9, 1998. In counselling the authorities ordinarily verified the genuineness and bonafide of the selected candidate and the eligibility certificates and documents produced by him. It appears that before counselling for M.B.B.S. course began on September 7, 1998 it was reported to the Respondent authorities that some of the candidates had

managed their selection through impersonation. According to the reports in some cases the candidate himself did not appear in the test but someone else impersonating the concerned candidate wrote the examination. On receipt of this information the Respondent authorities did what they could at that stage to find out and isolate the imposters among the genuine candidates. They devised a simple but effective method based on comparison of hand writings. Each of the candidates called for counselling (for M.B.B.S. Course) was given dictation of a few sentences or words from his own answer sheet of the selection examination. The specimen hand writing thus obtained from each of the candidates was compared with the hand writing in his answer sheet for determining his genuineness. By this method the Respondents came to find that the specimen handwritings of these Petitioners (and a few others) were so vastly different from the hand writings in their respective answer sheets that the Petitioners could not possibly be the writers of the answer sheets on the basis of which their selection was made. It therefore followed that these Petitioners (and a few others) had secured their selection by fraud and in place of each of the Petitioners some imposters had appeared in the selection test impersonating for the concerned Petitioners. In all such cases the Respondent authorities denied admission to the concerned candidates. A criminal case was also instituted in which those candidates were named as accused. The eight Petitioners before this Court are among the candidates who were denied admission by the Respondent authorities in the aforesaid circumstances. They have come to this Court challenging the action of the Respondent authorities and seeking a direction to them to allow them admission in M.B.B.S. Course on the basis of their selection in the competitive examination.

3. Mr. P.K. Shahi, learned Counsel appearing for the Controller of Examination has filed counter affidavits in each of the three cases. Through the counter affidavits he has brought on record photo copies of the specimen hand writings of each of the Petitioners, the relevant pages from their answer sheets and the relevant portions of their application form. At this stage, it would be convenient to sort out the relevant materials concerning each of the Petitioners which are as follows:

CWJC No. 8767/98

4. In this case Awadhesh Kumar is Petitioner No. 1. His specimen hand writings (in three pages) is marked Annexure-B; the relevant pages from his answer sheet of the selection examination is at Annexure-C (1) and his application form is at Annexure-D(1).

5. Petitioner No. 2 is Rajendra Kumar Das. His specimen hand writing (in two pages) is marked Annexure-B(1), the relevant page from his answer sheet is at Annexure-C(2) and his application form is at Annexure-D(2).

6. Petitioner No. 3 is Sanjay Kumar Ranjan. His specimen hand writing (in one page) is marked Annexure-B(4), the relevant page from his answer sheet is at

Annexure-C(4) and his application form is at Annexure-D(5).

7. Petitioner No. 4 is Shambhu Pas-wan. His specimen hand writing is marked Annexure-3(6); the relevant page from his answer sheet is at Annexure-C(6) and his application form is at Annexure-D(3).

8. Petitioner No. 5 is Raja Ram Prasad. His specimen hand writing is marked Annexure-B(3); the relevant page from his answer sheet is at Annexure-C(3) and his application form is at Annexure-D(6).

9. Petitioner No. 6 is Sanjay Kumar Anand. His specimen hand writing is an unmarked annexure; the relevant page from his answer sheet is at Annexure-C(5) and his application is at Annexure-D(4).

CWJC No. 10041/98

10. The sole Petitioner in this case is Md. Abu Talib. A photo copy of his specimen hand writing is at Annexure-A and the relevant pages from his answer sheet are at Annexure-B.

CWJC No. 8059/98

11. The sole Petitioner in this case is Ankur Anand. His specimen hand writing (in three pages) is marked Annexure-B; the relevant page from his answer sheet is at Annexure-C and his application form is marked as Annexure-D.

12. I have attentively listened to the submissions made on behalf of the Petitioners in each of the three cases and I have myself compared very carefully the specimen hand writing of each of the Petitioners with the hand writing in their respective answer sheets and I am of the opinion that the Respondent authorities were fully justified in taking the view that the specimen hand writings of the Petitioners were quite different from the hand writings in their respective answer sheets. The natural inference, therefore, was that the answer sheets were not written by the Petitioners but in each case, by someone else impersonating for them in the examination hall.

13. In the case of the six Petitioners in C.W.J.C. No. 8767/98 and the sole Petitioner in C.W.J.C. No. 10041/98 the inference appears to be irresistible. In their case the difference between the specimen writings and the writings in their respective answer sheets is not merely of style of writing. But the difference is far more basic and fundamental. The writing in each of the answer sheets is smooth and easy flowing; in the specimens, particularly of Petitioners 2, 4 and 5 in C.W.J.C. No. 8767/98 and the sole Petitioner in C.W.J.C. No. 10041/98 the writing is in the form of broken scrawls which is readable only with some difficulty, and it appears that in their fingers pen was an unfamiliar article. Further, it seems that the writers of the answer sheets and the Petitioners in C.W.J.C. No. 8767 and 10041/98 were at two different levels of literacy and beaming. From the answer sheets it appears that the persons writing the examination were conversant with the terminology and vocabulary of the

subject; the seven Petitioners, from their specimen writings appear to be quite unfamiliar with the subjects terminology. In the specimens a number of spelling mistakes were made even in writing a few sentence. To appreciate the real significance of the spelling mistakes in the specimen writings of these Petitioners it is to be recalled that the specimens were obtained by giving the Petitioners dictation of a few sentences from answer sheets of which, according to their claim, they were themselves the writers.

14. Similar is the case of the sole Petitioner in CWJC No. 10041/1998. His specimen writing has no similarity with the writing in his purported answer sheet and from an endorsement made by the interviewer on that page it appears that this Petitioner did not seem to know what was written in the answer sheets purported to belong to him. A mere glance at the answer sheet, Annexure "B" and his specimen hand writing would leave no room for doubt that the writer of the two were different persons and the answer sheet could not have been written by this Petitioner.

15. Now coming to CWJC No. 8509/1998, it is indeed true that the two writings (one in the specimen collected at the time of counselling and the other in the answer sheet) are in somewhat different styles, particularly in respect of a few letters. It is also true that in the specimen writing, atleast in one word, one letter is missing and that gives the word an incorrect spelling. Therefore, the Respondent authorities cannot be faulted for taking the view that this too was a case of impersonation. However, in the case of the Petitioner in CWJC No. 8509/1998, it cannot be said that he seemed to be completely ignorant of the terminology of the subject; further, there are some points of similarity too in the two hand writings and one of the signatures in the specimen writing particularly matches with the signature in the application form marked as Annexure "B".

16. In the case of this petition, for varous reasons, I am unable to come to an irresistible conclusion, with one hundred percent certainty, like the Petitioners in the other two cases that this also was a case of impersonation.

17. It is very difficult for this Court to even entertain the idea that a single bona fide candidate should be disallowed admission on an incorrect finding that he secured his selection through fraud and impersonation. This Court would, therefore, wish to have the matter further investigated till a finding may be arrived at free from all doubts.

18. It may be noted here that earlier in two similar cases being CWJC Nos. 8296 and 9321 of 1998 this Court asked the Respondent authorities to refer the specimen hand writings and the answer sheets of the Petitioners in those two cases for the opinion of the hand writing expert in the Police Laboratory, C.I.D., Bihar, Patna and to take a decision in the light of the expert's report. In my view this would be the proper course to take in so far as the Petitioner Ankur Anand in CWJC No. 8509/1998 is concerned. The Respondent authorities are accordingly directed to obtain the opinion of a hand writing expert in his case by sending his

specimen hand writing and his answer sheets to the Police Laboratory, C.I.D., Bihar, Patna It will be open to the Petitioner Ankur Anand to appear before the Chairman, Bihar Combined Entrance Competitive Examination Board, who happens to be the Member, Board of Revenue along with a copy of this order on or before December 25,1998. It will also be open to the Petitioner to give further specimens of his hand writing and if he so desires, the Chairman will obtain from him further specimens, of his hand writing. The Petitioner Ankur Anand may also produce any materials in support of his claim that it was not a case of impersonation and it was he who had appeared in the selection test. The Chairman will send the specimen hand writing collected at the time of counselling and further specimens, if any, given by the Petitioner, along with his purported answer sheets to the Police Laboratory, C.I.D., Bihar, Patna for the expert's opinion. The Police Laboratory will submit its report within ten days from the receipt of the materials and the Respondent authorities will then take a decision in the light of the expert's report and other materials, if any, furnished by the Petitioner. The Petitioner will be duly informed about the decision taken by the authorities within three weeks from the date of his appearance before the Chairman of the Board.

19. Before parting with the records of this case, I may note that earlier by order dated 17.11.1998 the responder authorities were asked to file further affidavits stating how they proposed to deal with the menace of impersonation in future examinations. In pursuance of that order, a supplementary counter affidavit has been filed in which it is stated that from the next year the authorities proposed to hold a preliminary test in order to screen out the vast majority of candidates. The final selection test would thus be conducted in a more manageable manner because the number of candidates would be considerably reduced after the preliminary test. The other proposal is to issue laminated admit cards, which would make any tampering with the candidate's photograph on the admit card much more difficult. This Court endorses both the proposals and recommends that the two proposals may be introduced from the next examination itself.

20. It may further be noted that in course of his submissions Mr. Shahi had admitted that a case of impersonation would not be possible without the connivance, if not active collusion of the officials of the examination centre. In that regard it appears to this Court that practically nothing has been done to check the staff at the examination centres and they would thus feel encouraged to indulge into similar activities in future examinations also. From the supplementary counter affidavit it appears that a criminal case has been instituted in which the concerned candidates are named as accused. I feel that the investigation in the criminal case should also take into its ambit the staff at the examination centres where the concerned candidates were allotted seats. I am further of the view that a message must go, strong and clear, that such activities are not likely to bring any good but may cause a great deal of harm. And the Respondent authorities, therefore, may consider the desirability of

debarring all such candidates from appearing in the Competitive Examination for the next one or two years. Before doing so they would issue notice and afford an opportunity of hearing why such penalty may not be awarded to the concerned candidates. The issuance of the notice may not be required in the case of the Petitioners before this Court inasmuch as they have been given more than ample opportunity to defend themselves before this Court. The Respondent authorities may further consider the desirability of circulating the names and photographs of all such candidates to the C.B.S.C. and other similar agencies intimating them that these candidates have indulged in fraudulent practice in the examination conducted by the Bihar Combined Entrance Competitive Examination Board.

21. I, would, however, like to emphasise that no amount of deterrent measures taken against the candidates would sufficiently check the evil unless equally stringent measures are adopted against the staff who may have a hand in this parctice. The Respondent authorities must make an endeavour to fix the responsibility of the Centre Superintendents and other staff assigned with the investigation (sic) duty at the different centres of examination.

22. In the result CWJC Nos. 10041 of 1998 and 8767 of 1998 stand dismissed and C.W.J.C. No. 8509 of 1998 is disposed of with the aforesaid observations and directions.

23. Let a copy of this order be given to Mr. Shahi.