
(2004) 09 PAT CK 0012

In the Patna High Court

Case No : CWJC No"s. 10201 and 9926 of 2004

Atul Kr. Mishra

APPELLANT

Vs

State and Others
 Dinesh Kumar Vs Bihar School
Secondary Examination Board and Others

RESPONDENT

Date of Decision : 20-09-2004

Acts Referred:

Citation : (2005) 1 PLJR 115

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Judgement

V.N. Sinha, J.—Both the writ applications are heard together and are being disposed of by this common order. The son of the petitioner in C.W.J.C. No. 10201/2004 and the petitioner of C.W.J.C. No. 9926/2004 were candidates in the matriculation examination conducted by the Bihar School Secondary Examination Board in March, 2004. Pursuant to their registration with the Board, as contained in annexure-1 to the two applications, as also receipt of the admit card, as contained in annexure-2 to the two applications, they appeared in the examination conducted in the month of March, 2004. The son of the petitioner in the former case, i.e., in C.W.J.C. No. 10201/2004 even saw his result and obtained marksheets through internet, when they however went to their schools to obtain the marksheets the school authorities informed them that the same may not be given to them as certain enquiry is pending in the matter and they should await the result of the enquiry. Later the Board directed the son of the petitioner and the petitioner to appear before the Medical Board. In compliance of that direction the son of the petitioner appeared before the Board on 3.6.2004. The Board vide its report dated 3.6.2004 itself, as contained in annexure-E to the counter-affidavit held that he was 16 to 17 years of age. In C.W.J.C. No. 9926/2004 under letter dated 14.6.2004, annexure-F, the Civil Surgeon cum Chief Medical Officer, Aurangabad, informed the District Education Officer, Aurangabad, that the petitioner Dinesh Kumar is aged between 19 to 22 years of age. The Bihar School Secondary Examination Board having considered

the reports of the Medical Board dated 3.6.2004 & 14.6.2004, Annexures-E & F to the two counter-affidavits under the impugned order dated 13th August, 2004, Annexure-E, cancelled the results of the son of the petitioner in the former case as that of the petitioner in the second case holding that they had given wrong date of birth in their application forms. During the hearing of the two writ applications the counsel for the petitioners have placed before me the aforesaid report of the Medical Board dated 3.6.2004 & 14.6.2004 and submitted that from perusal of the two reports of the Medical Board it would appear that the Board without taking any ossification examination X-ray test or any other scientific test only on the basis of its ipse dixit has held the age of the son of the petitioner in C.W.J.C. No. 10201/2004 as 16 to 17 years and that of petitioner in C.W.J.C. No. 9926 of 2004 as 19 to 22 years.

2. In this connection, learned counsel has also placed before me reliance over a Division Bench judgment of this court rendered in the case of Shri Gobardhan Singh vs. State of Bihar reported in 1986 P.L.J.R. 109. For ready reference relevant portions from paragraph 7 thereof is quoted hereinbelow:-

The Civil Surgeon who issued the certificate (Annexure-7) just stated in a bald manner that the petitioner's age would be 54 to 56 years. He did not give any date for forming the conclusion that he did. There is no scientific date on the basis of which he formed his conclusion. He has not mentioned in Annexure-7 that X-ray or ossification test was gone through. We have looked into the Modi Medical Jurisprudence (15th edition revised). At pages 33 to 36, a detailed chart has been given for ascertaining the approximate age of individuals. A look at the chart shows that it is well nigh impossible to state clinically what can be the age of a person near about 50 years of age. In that view of the matter, we are unable to put any reliance upon the medical certificate (Annexure-7).

3. In this case also the situation is similar as the Bihar School Secondary Examination Board has cancelled the results of the son of the petitioner in the former case and that of the petitioner in the latter case only on the basis of the reports of the Medical Board which have no scientific basis and, as such, I have no option but to quash the order dated 13.8.2004, Annexure-F, with direction to the Bihar School Secondary Examination Board to again refer the case of the son of the petitioner in C.W.J.C. No. 10201/2004 and that of petitioner in C.W.J.C. No. 9926/ 2004 to the Medical Board which should examine their age with reference to the scientific test like ossification/X-ray etc. and thereafter submit its report on the basis of which Board shall pass fresh order. The exercise in terms of this order should be completed within a period of four weeks from the date of receipt/production of a copy of this. This disposes of this application. No cost.