

(2004) 07 PAT CK 0063
In the Patna High Court
Case No : CWJC No. 16191 of 2001

Bhupendra Narain Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-07-2004

Acts Referred:

Bihar School Examination Board Act, 1952 — Section 4, 8

Citation : (2004) 52 BLJR 2328 : (2004) 4 PLJR 746

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kumar Singh, J

Bench : Division Bench

Advocate : Rajendra Pd. Singh, sisted by Jay Shankar, for the Appellant; J.P. Shukla, assisted by R.K. Shukla, S. Alamdar Hussain, S.C. 6, for the Respondent

Final Decision : Allowed

Judgement

Ravi S. Dhavan, C.J. and Shashank Kumar Singh, J.—This is not a matter which should have come to the High Court at all. It is basically a public issue which had virtually been resolved by the High Court when it passed an order dated 4 April, 2004 in this very petition.

2. The High Court had left the State Government free to restructure the Board strictly in accordance with law, the Bihar School Examination Board Act, 1952. Adhocism was continuing and instead of structuring the Board in accordance with Section 4 of the Act temporary arrangements were continuing, more than was necessary. In the circumstances, the Court required the State Government to put in an ex-officio representation forthwith and thereafter restructure the Board in accordance with Section 4(a) and Section 8.

3. The State Government apparently took the path of least resistance and made the Administrator the Chairman. This continues the issues.

4. In so far as the Court is concerned, the action of the State Government is a mediocrity of the first order. Whether it is disrespect to the orders of the Court or not that is entirely another matter.

5. Nothing stopped the State Government then, nor as of now to make appointments strictly in accordance with the Act.

6. The Court did not desire to record the circumstances when it passed its order of 9th April, 2002 but it will be constrained to do so now.

7. In so far as the Administrator is concerned, it was entirely up to the State Government to examine the matter at its end and come to an objective understanding whether this incumbent should be appointed as a Chairman or not. This is in fact public accountability. The Court was avoiding to record certain circumstances in the order of 9 April, 2002 and had left it to the State Government to examine the matter.

8. What the State Government did was to make the Administrator, the Chairman. Now how does the State Government answer the petition. The record shows that it does not answer the petition. It evades uncomfortable questions which have been asked by the petitioner, particularly paragraph 17 of the petition. The reply which the State Government has given is, in fact, no reply. There is no reply and the State Government has ran away from answering paragraph 17. This is a short shrift of whole matter. There are serious allegations in paragraph 17" which are reproduced :

"That several complaints of high handedness against respondents 4 and 5 have been brought to the notice of the government either through the legislative assembly or council or even directly by the legislature apart from the public person. On 28.9.2001 more than dozen legislature have written to the Hon"ble the Chief Minister for immediate enquiry and removing of respondent No. 4 from the working of the Board. Several charges have been levelled against respondent No. 4 by the legislature of the State. All such charges are in writing and address to the Hon"ble the Chief Minister of the State. Hon"ble Minister (Home) Jail Department has requested to the Hon"ble Chief Minister on 29.9.2001 on the written complaint of the legislature for immediate action on the application of the legislature."

9. The State Government had the freedom to deny every aspect on facts that the record to which the petitioner refers does not reflect the circumstances and is a figment of the petitioner's imagination. This the State Government did not. A reply has been filed by respondents 4 and 5. Respondent No. 4 is the Administrator who is at present the Chairman. Respondent No. 5 is the Secretary. If the allegations were against the Chairman then it would have been only appropriate that he should have replied for himself on the allegations made against him. Instead he asked the Secretary to reply for him. The secretary can only speak for himself paragraph 17 remained unanswered. The embarrassment is entirely of the State Government.

10. While the Court refrains from giving a direction that the respondent against whom the allegations are on record be removed, it does certify that in the face of an unsatisfactory explanation and, in fact, an evasion by running away from the

reality of record, if what is contained in paragraph 17 is correct, then the person who was the Administrator cannot become the Chairman.

11. The petition succeeds.