

(2019) 12 PAT CK 0124

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 23427 Of 2019

Jahnvi Somya

APPELLANT

Vs

Bihar School Examination Board Patna And Anr

RESPONDENT

Date of Decision : 13-12-2019

Acts Referred:

Bihar School Examination Board Regulations, 1964 — Regulation 13, 13(b), 22, 22(iii)
Bihar School Examination Board Act, 1952 — Section 17

Citation : (2020) 1 PLJR 426

Hon'ble Judges : Chakradhari Sharan Singh, J

Bench : Single Bench

Advocate : Sidhendra Narayan Singh, Kumar Lalit, Satyabir Bharti, Siya Ram Shahi

Final Decision : Allowed

Judgement

1. I have heard learned counsel for the petitioner, learned counsel appearing on behalf of Bihar School Examination Board, Patna (hereinafter referred to as 'the Board') and learned counsel representing B.S. Uchcha Madhyamik Vidyalaya, Chandipur Saur, Warisaliganj, Nawada (hereinafter referred to as 'the School').

2. Before noticing the relief, which the petitioner is seeking in the present writ application, certain facts, which are not at all in dispute, need to be taken note of.

3. The petitioner is a minor girl and a regular student of the School, who is pursuing her Intermediate course in the said School for the Session 2018-20. She has approached this Court through her father. The School is affiliated with the Board which holds Intermediate examination. Under the regulations governing Intermediate examination, a student must be registered with the Board to appear in the examination, after he/she fills up and submits the examination form and Admit card is issued, in that regard. Regulation 22 of the Bihar School Examination Board Regulations, 1964 (hereinafter referred to as 'the Regulations') framed in exercise of power under Section 17 of the Act. Sub-Regulation (iii) of Regulation 22 stipulates that application forms of regular

candidates with requisite fee for registration, duly forwarded by the head of the institution, shall be received by 31st March of the preceding year of the concerned Board examination and no application for registration shall be entertained after the said date. Under the decisions of the Board, the said date of registration for candidates proposing to appear in 2020 examination has been extended from time to time up to 30.07.2019. The last date for submission of examination forms was fixed by the Board as 04.08.2019. As is clear from the language of sub-regulation (iii) of Regulation 22, the registration forms are to be forwarded by the heads of the respective institutions.

4. It is admitted case of the School that the petitioner had deposited the registration fee with late fine on 28.07.2019 and online application was submitted by the School for registration of 42 candidates which were considered by the School to have been successfully accepted by the Board, with the issuance of registration slip in respect of all the 42 candidates, including the petitioner. It is also stated in the counter affidavit filed by the School that after registration of the students, names of the registered students were displayed online at the time of filling up of online examination form. The name of the petitioner, however, was not displayed as registered candidate between 01.08.2019, when the process of submission of examination forms had begun till 04.08.2019, which was the last date of submission of online examination form. It is further case of the School that though the School remained under the impression that registration fee of all the 42 candidates were duly deposited with the Board, it subsequently transpired that registration fee in respect of only 41 students were deposited in the Board's account online and the petitioner's registration fee could not be successfully deposited by the School with the Board. The School has admitted in the counter affidavit that it was because of a clerical human error and unintentional mistake on the part of the School administration that the registration fee in respect of the petitioner could not be deposited by the School with the Board, before the last date fixed for submission of registration form.

5. This is to be noted that whereas under the Regulations, 31st March of preceding year of the examination is to be the last date for registration of candidates, in the present case, the Board had extended the said date upto 04.08.2019. It is stated on behalf of the Board that the process of filling up of examination forms started on 29.06.2019 and the date of submission of examination form was, subsequently, extended from time to time and lastly the said period was extended from 01.08.2019 to 04.08.2019, during which also the candidates could submit their examination forms. It is evident, thus, that admittedly registration with the Board is a condition precedent for a student to appear for the examination and registration with the Board only makes a candidate eligible to submit the examination form. The last date of submission of registration fee was being extended from time to time even beyond the date when the process of filling up of examination forms had started. For reasons best known to the School, it chose to submit the registration fee on the last date fixed by the Board for the said purpose.

6. Be that as it may, School has admitted in the counter affidavit that the petitioner had submitted her registration fee and the School had taken steps for submission of online registration form. Before I proceed to state the fact, which goes to the root of the matter, I must again refer to sub-regulation (iii) of Regulation 22 of the Regulations, which stipulates that a regular candidate can apply for registration only through the institution and, thus, cannot on his/ her own, make application for registration or pay the registration fee. For the purpose of registration of regular candidates with the Board, the head of the institution acts as an agent of the Board.

7. Since the petitioner's registration fee could not be deposited because of failure, clerical error or unintentional mistake of the institution in question, as has been described in the counter affidavit filed on behalf of the School, the examination form of the petitioner for the Intermediate (+2) examination could not be submitted. The last date for submission of examination form, as has been noted above, has expired on 04.08.2019.

8. In the background of above noted facts, the petitioner has filed this writ application seeking direction to the respondent Board to allow opening of the web portal of the Board displaying petitioner's name in order to fill up her online examination form for appearing in the final Intermediate (+2) examination or to accept her examination form manually.

9. Resisting the relief, which the petitioner is seeking, it is the plea of the Board in the counter affidavit that since the registration fee of the petitioner had not been submitted by the concerned institutional head, web portal of the Board for filling up the petitioner's form for examination could not be opened. It has been argued on behalf of the Board that the necessary formalities for convening Intermediate (+2) examination for academic session 2018-20 has been completed and, at this stage, the relief sought for by the petitioner cannot be entertained.

10. On the basis of what has been asserted in the counter affidavits filed on behalf of the respondents read with the averments made by the petitioner in the writ application, there is no scope of doubt that there has been no laches or fault on the part of the petitioner. The registration fee was to be deposited by the head of the institution, in the present case online, as contemplated under sub-regulation (iii) of Regulation 22. The mistake, though unintentional, has been admitted by the School. As I have already observed, in my opinion, the School/ head of the institution acts as an agent of the Board for the purpose of registration of the candidates for the examination.

11. In the aforesaid background, the stand of the Board that the petitioner cannot be allowed to submit her examination form will have to be assessed. I must notice in this regard, Regulation 13 of the Regulations, which reads thus :-

"13. Date of application.-(a) All applications for permission to appear at the Board's examination shall be in the prescribed form and shall be forwarded to the

Secretary by the Heads of the Institution so as to reach the Office of the Board by such dates as may be fixed and notified by the Board from time to time.

(b) Late Fee.-A late fine @ Re. 1/-(one) per day per candidate shall have to be paid in case of later submission of fee and form subject to the condition that no fee or form shall be accepted later than thirty days of the commencement of the Annual Examination and fifteen days of the [Compartmental] Examination."

12. It is evident from sub-regulation (b) of Regulation 13 that fee or form can be accepted by the Board not later than 30 days prior to the date of commencement of annual examination. It is, thus, not impermissible under the Regulations to allow candidates to fill up their examination forms in appropriate cases, with late fine.

13. In the facts and circumstances noted above, since there is no fault or laches of the petitioner, who is admittedly a minor (less than 18 years), I am of the view that she cannot be penalised in any manner for the mistake of her institutional head, which was acting, for the purpose of registration, as an agent of the Board.

14. This writ application is, accordingly, allowed. The Secretary of the Board is directed to ensure that necessary formalities are completed for registration of the petitioner within one week from the date the head of the institution submits registration fee with late fine. For the said purpose, the Board will be required to make all necessary arrangements on the web portal. It will be the responsibility of the institution to ensure that submission of entire registration fee, examination fee, examination forms are submitted and other formalities for the petitioner's registration for ensuing Intermediate (+2) examination is completed by the end of this week. The Board shall make corresponding arrangements.

15. Since the petitioner has been made to suffer for the mistake, unintentionally or otherwise of the institution and the Board has been put to inconvenience leading to present situation, a cost of Rs. 50,000/- is awarded on the School, 30,000=00 of which shall be paid to the petitioner and 20,000=00 to the Board within one week from today.