

(2008) 11 PAT CK 0101
In the Patna High Court
Case No : CWJC No. 14155 of 2008

Kumari Ragini @ Ragini Kumari and Another	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 11-11-2008

Acts Referred:

Citation : (2009) 2 PLJR 390

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : Bankey Bihari Singh and Sanjay Kumar, Girijesh Kumar, for the Appellant;

Judgement

Shiva Kirti Singh, J.—Heard learned counsel for the petitioners and learned counsel for the Bihar School Examination Board. Petitioners claim to be regular students of Bhagwan Budha Primary Teacher's Training College, Baijrahia, Siwan and to have passed Teacher's Training Examination 1991. Petitioner No. 1 claims to be a student of session 1986-88 and petitioner No. 2 claims to be student of the session 1985-87. The examination was conducted by the Bihar School Examination Board (for short "the Board") in the year 1991. Petitioners' result was published by the Board on 27.8.2006 pursuant to a judgment of this Court reported in 2006(4) PLJR 311 (Managing Committee of Bhagwan Budh Primary Teacher's Education College vs. The State of Bihar & Ors.)- In that case the institution had preferred writ petition that the stand of the respondents in restricting the number of students eligible to take the examination as 100 was illegal. That issue was decided in favour of the institution and accordingly, this Court directed for publishing the results of those students also who were beyond the deemed strength of 100. However, the individual case of the examinees was not an issue in that case. On behalf of the petitioners it has been submitted that once the Board issued admit cards and allowed the petitioners to take the examination, it has no authority to cancel the result of the petitioners as claimed in the counter affidavit and that too without any notice to the petitioners. It has

further been submitted that the stand of the respondents in paragraph 6 of the counter affidavit that in course of verification of candidature, the admission register as well as "chainit suchi" of the said college was verified in the year 2007 and it was found that the name of the petitioners are not mentioned in the admission register as well as in the select list appears to be doubtful because in the same paragraph it is also mentioned that the matter is too old and concerned office file relating to conduct of the said examination is also not available at this moment.

2. On behalf of the petitioners several other judgments were cited in which this Court has condoned lapses of colleges or universities and has allowed publication of results of candidates who were not at fault. This Court is aware of the general law that once the candidate is allowed to take part in the examination, result cannot be withheld or cancelled except on the ground of malpractice. However, in the present case, issue raised involves malpractice as well as fraud involving the institution as well as the petitioners because in the counter affidavit it has been alleged that petitioners have been found to be not the students of the college in question because their names are not mentioned in the admission register.

3. In that view of the matter, this Court is of the considered view that the Board is entitled under Regulations 18 and 19 to hold an enquiry into alleged malpractice or fraud for the purposes of finding out the true facts and then decide whether the candidature of the petitioners deserves to be cancelled or not. However, such exercise must be done fairly and the materials available against the petitioners must be shown to them or to their representatives so that they may submit their explanation and after considering such explanation a fresh decision should be taken by the respondent-Board giving reasons in brief if the matter is decided against the petitioners. In case the matter is decided in favour of the petitioners then they should be given the necessary certificates without any delay. It is expected that such an exercise shall be completed by the respondent-Board within a period of four weeks from today. For this purpose, the petitioners or their representatives must meet respondent No. 4, the Secretary of the Board within one week from today.

4. With the aforesaid directions, the writ petition is disposed of. Let a copy of this order be given to learned counsel for the Bihar School Examination Board for communication and compliance.