

(1984) 09 PAT CK 0021

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1045 of 1984

Managing Committee, Phulmati Kanya Uchaya Vidyalaya,
Panan

APPELLANT

Vs

Bihar Secondary School Examination Board and Others

RESPONDENT

Date of Decision : 28-09-1984

Acts Referred:

Bihar School Examination Board Act, 1952 — Section 17

Citation : (1984) PLJR 66

Hon'ble Judges : P.S. Sahay, J

Bench : Single Bench

Advocate : Y.V. Giri, Vivekanand Singh and Barmeshwar Tiwary, for the Appellant; Jagannath Jha, S.C.I. and Anand Sahay, J.C. to S.C.I., for the State and M/s Tara Kant Jha and Pashupati nath Jha, for the board, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Sahay, J.—In this writ application a prayer has been made for a direction to the Bihar Secondary School Examination Board, Patna, respondent no. 1, to publish the results of the students of the petitioner-School who had appeared at the examination. Originally the prayer was that the School should be recognised and the student should be allowed to appear but since the question of recognition was pending before the State Government, by order dated 23.3.1984 the State Government was directed to dispose of the matter so that the students may be able to appear at least in the supplementary examination. In spite of that no order was passed by the State Government and the application was admitted on 15.5.1984. Thereafter, the students were allowed to appear provisionally but the results have not been published and hence this writ application.

2. A counter affidavit has been filed on behalf of the Board in which it is stated that recognition is granted by the State Government and unless the School is recognised the Board is not competent to allow the students to appear at the examination. In reply to the aforesaid counter affidavit it is stated on behalf of

the petitioner that the fees and forms have been accepted and, therefore, the Board is not competent to raise the question of recognition. In this connection various letters have been relied upon.

3. Mr. Tara Kant Jha, appearing on behalf of the Board, has drawn my attention to the various regulations of the Bihar School Examination Board which has been framed u/s 17 of the Bihar School Examination Board Act. He has further drawn my attention to section 2 and has submitted that only the students of a recognised School is entitled to appear and it was an admitted case that the petitioner's School has not received recognition by the State and therefore, the Board was fully justified in not publishing the results of the students of the School. He has, further, submitted that the fees and forms were accepted provisionally and, since no right had accrued to the School, the Board was fully justified in not publishing the results of their students. Regarding the contention of the petitioner that the centre superintendent had allowed the students to appear vide Annexure-7, he has submitted that it was for a limited purpose and permission is granted in special cases but this could not confer any right to the students. He has also drawn my attention to regulation 9 Chapter V rule 9 which fully supports his contention. In my opinion, the contention raised on behalf of the Board is well founded and must be accepted. Learned counsel appearing for the petitioner has then submitted that there is a provision for the students appearing privately which is well recognised by the Board and the students who had appeared should be treated as private candidates. Learned counsel for the Board has drawn my attention to the provisions of the regulation and the private candidates form a separate class and they have to appear at the preliminary test which has not been done in the instant case. I have myself gone through the provisions and I am satisfied that the students of the petitioner-School cannot be treated as private candidates. Thus, I find that there is no merit in this application and it is, accordingly, dismissed. But, in the facts and circumstances of the case there shall be no order as to costs. I may again reiterate that the question of recognition is still pending before the State Government and the learned Standing Counsel, appearing on behalf of the State, has submitted that some decision will be taken at an early date. It is hoped that the State Government will decide the matter finally so that School authorities may also know their position.