
(2007) 02 PAT CK 0133
In the Patna High Court
Case No : CWJC No. 4458 of 2006

Neelu Kumari

APPELLANT

Vs

The Bihar School Examination Board and Others

RESPONDENT

Date of Decision : 20-02-2007

Acts Referred:

Citation : (2007) 2 BLJR 1468

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Aditya Nr. Singh and Kundan Kr. Sinha, for the Appellant; J.P. Shukla G.N. Shukla and Dhruv Mukherjee SC to State of Jharkhand, for the Respondent

Final Decision : Allowed

Judgement

Navnit Prasad Singh, J.—If a person approaches the Court after inordinate delay to obtain result of an examination, the Court may proceed with the matter with suspicion because normally one should be eager to know the outcome of his efforts put in at the examination upon giving his time and energy to the studies pursued by him. The examination authorities, at the same time, are required to keep and maintain their records pertaining to results. Even after 30 years a candidate may approach the examination authority for obtaining or re-obtaining his result. In case the original result has been given, a duplicate thereof is normally furnished, when such an approach is made. A Statutory Board constituted to conduct public examinations is thus required to keep and maintain its records pertaining such examinations. In the event such a Statutory Board reports to the Court that the candidate concerned was absent at the examination as a whole or at a particular paper, the same must be accepted as a gospel truth. It is possible for a Statutory Board to report to the Court even after expiry of 20 years whether a candidate appeared or did not appear in a particular examination or in a particular paper connected with that examination by looking at its register known as Tabulation Register.

2. In the instant case, the Respondent Board, though is a Statutory Board

constituted to conduct public examinations, has no confidence in its own affairs and accordingly has not been able to report to the Court with confidence that since the Tabulation Register shows that the petitioner was absent at a particular paper of the concerned examination, he has failed. The affairs and conduct of the Board are so obnoxious that it had to resolve in 2006 that if the Tabulation Register is lying blank in respect of any paper of any examination conducted 10 years back, the Board will proceed on the basis that the candidate had not appeared at that paper. It suggests that the Board has not been able to conduct itself in the manner it was required to conduct while holding public examinations.

3. In the instant case the petitioner pursued her studies in a Government Institution though in 1986, but the fact remains that she appeared in all written examinations and obtained appropriate marks in relation to her efforts made in those examinations. Those marks have been reflected in the Tabulation Register maintained by the Board. The Tabulation Register does not reflect any marks pertaining to the External Assessment Paper of the petitioner, which assessment had been done by the Board. At the same time, it does not show that she was absent at that paper.

4. The College, where the petitioner studied, has repeated in correspondence with the Board and has also asserted in the counter affidavit that the petitioner was, in fact, assessed by the Board in relation to the External Assessment Paper; whereas the Board is not in a position to inform this Court whether, in fact, the petitioner was so assessed or not. The people in the helm of the affairs of the Board at present are not in a position to inform this Court as to how the people then in the helm of the affairs of the Board conducted themselves in relation to the affairs of the Board and accordingly they are not in a position to take a definite stand. The question is, in such a situation when the Principal of a Government Institution is vouching that the petitioner has been examined, merely because the Board has not recorded the marks of the petitioner in its Tabulation Register, will it be appropriate and in public interest to declare that the petitioner has failed on the basis of the resolution, as has been adopted by the Board in 2006? If such a stand is permitted to hold the fort, I think, the people adorning from time to time the offices entailing authority to control the affairs of the Board will run havoc and, as a result, the sanctity of public examinations will be thrown into Ganges. As a Court of equity, I cannot permit the same and, accordingly, I would not permit persons now in the helm of the affairs of the Board to take a half-stand to the effect that "We do not know whether, in fact, the petitioner had appeared at the examination or not but since our predecessors had not put the marks of the petitioner pertaining to the subject paper in the Tabulation Register, we will presume that she did not appear at that paper."

5. Therefore, what marks should be given to the petitioner is a question to be decided by the Court. The learned Counsel for the petitioner suggested that she should be awarded average marks. I think the best course would be, having regard to the fact that the petitioner has passed in all the papers except that one

solitary paper of External Assessment, she should be accorded the bare pass marks therein so that she may be declared to have passed the examination.

6. Accordingly, the writ petition is allowed to the extent as above with a direction upon the Board to issue a certificate to the petitioner along with marks sheet showing that she has obtained the bare pass marks in the External Assessment Paper. Let the above exercise be completed within a month from today.

7. The learned Counsel for the Board submitted that this order should not be treated as a precedent, but having regard to the principles of law followed by the Courts, the Courts, being bound by their own pronouncements, cannot restrict application of such pronouncements in relation to others.

8. Let a copy of this order be supplied to the learned Counsel appearing for the parties.