

(2022) 02 PAT CK 0074

Patna High Court

Case No: Letters Patent Appeal No. 192 Of 2020 In Civil Writ Jurisdiction Case No. 21368
Of 2019

Bihar School Examination Board

APPELLANT

Vs

Nagma Praveen

RESPONDENT

Date of Decision: Feb. 28, 2022

Hon'ble Judges: Sanjay Karol, CJ; S. Kumar, J

Bench: Division Bench

Advocate: Manish Kumar, Ajay Kumar Rastogi, Abhinav Srivastava, Ujjawal Bhushan

Final Decision: Dismissed

Judgement

Heard learned counsel for the parties.

This LPA has been preferred on behalf of Bihar School Examination Board for setting aside the judgment and order dated 19.12.2019 passed in

CWJC No.21368 of 2019 passed by learned Single Judge allowing the writ petition filed by writ petitioner (Nagma Praveen).

Briefly stated the facts of the case is that a press release dated 3.3.2017 bearing No.19 / 2017 was issued by the Bihar School Examination Board

intimating that 150 students have filed online forms from two schools having two different registration numbers and the Board has cancelled the

candidature of all those 150 students, the details of whom were uploaded on the website of Board including that of petitioner.

Earlier, writ petitioner (Nagma Praveen) had filed CWJC No.7717 of 2017 for quashing that part of the list which indicated that writ petitioner had

two registration numbers and her candidature has been cancelled with further prayer to allow the writ petitioner (Nagma Praveen) to appear in the

Special Intermediate Examination, 2017 to be conducted by the Board. It was submitted by the writ petitioner (Nagma Praveen) that she was student of Aditya Singh High School, Hisua, Nawada in the year 2015 and after passing the secondary examination, 2015, she took admission in the Intermediate course at Magadh Central Secondary School, Hisua, Nawada in the year 2015 and she filled her form for registering herself for the intermediate examination, 2017 and she was allotted Registration No.0027 of 2015. CWJC No.7717 of 2017 was disposed of on 23.06.2017 with a direction to the Board to cancel the additional registration number that has been issued in the name of writ petitioner and to allow her to appear in the compartmental Intermediate Examination-2017.

Aggrieved by order of learned Single Judge, Board preferred LPA being LPA No.955 of 2017 and the order passed by the learned Single Judge was modified by the Division Bench by its order dated 11.12.2017 which reads as follows:-

"Having heard learned counsel for the parties and taking note of the facts and circumstances of the case, we direct that the enquiry to be conducted by the Board, as directed by the Writ Court shall be concluded within a period of one month from today and depending upon the outcome of the said enquiry in case the respondent No.1 stands exonerated in the enquiry, her result in the compartmental examination undertaken by her shall be declared else the Board shall be free to cancel her examination and the respondent No. 1 shall be free to challenge the outcome of the enquiry and the order issued by the Board.

With the aforesaid modification in the order passed by the Writ Court, the appeal stands disposed of."

Writ petitioner appeared in the special Intermediate Examination, 2017, however, her result was not declared and her registration number / candidature was also cancelled, as in the inquiry conducted by the Board, she was found guilty of misconduct and inquiry report dated 24.04.2018 was submitted to this effect.

In the inquiry conducted by the Board pursuant to liberty given by Division Bench in LPA No.955 of 2017, by order dated 23.06.2017, it was found

that writ petitioner got herself registered twice for session 2015-17 from two different schools as a regular candidate. Writ petitioner was firstly admitted in Magadh Senior Secondary School, Nawada and thereafter, she got herself admitted in Intermediate High School, Karpy, Arwal by making online application from two schools and writ petitioner got two registration numbers, i.e., R-230810027 / 15 as being regular student of Magadh Central Senior Secondary School, Nawada and R-25008003815 being regular student of Intermediate High School, Karpy, Arwal. In the inquiry, it was found that writ petitioner and her parents committed misconduct by getting the petitioner admitted in two schools as regular student and also got two registration numbers from two schools to appear at the examination with oblique motive for unlawful gain and accordingly her candidature was cancelled and results were not declared.

Petitioner thereafter filed CWJC No.21368 of 2019 for quashing the order dated 24.04.2018 passed by the Joint Secretary-cum-Controller of Examination, Bihar School Examination Board, Patna by which her candidature was cancelled and her result was not declared and same was allowed by the learned Single Judge by order dated 19.12.2019 and aggrieved by which, Bihar School Examination Board has filed present LPA.

In the inquiry conducted by the Board, the inquiry committee found from the record of Magadh Central Senior Secondary School that writ petitioner was admitted in the school on 28.08.2015 and her name appeared at Sr. No.108 in the admission register and in the Senior Secondary School, Karpi, Arwal she was admitted on 01.11.2015 and her name appeared at Sr. No.207. The inquiry committee further found that the photograph of the writ petitioner did not tally with the photograph affixed on the admission application and registration application but the committee found that in both the schools on Adhar Card and matriculation mark sheet, the name of parents of writ petitioner are same.

Such malpractice has been committed only with a view to get good results by impersonating the petitioner in the examination by someone else and finding the allegations to be true that petitioner had two registration numbers from two different schools, her registration number / candidature was cancelled and her result was not declared.

The learned Single Judge has held that admittedly the writ petitioner was minor on the date of her admission in the school and the inquiry officer did

not collect any document to show that it was the writ petitioner and not either her parents or her relatives got her illegally admitted in the second

school with ulterior motive of fetching good marks in the intermediate examination by allowing somebody else to appear at the examination on behalf

of petitioner. This act might have been committed by the parent of the petitioner but such misdeed of parents of petitioner, the candidature of petitioner

cannot be cancelled and withholding the result of petitioner is not justified and allowed the writ petition and quashed the impugned order dated

24.04.2018 passed by Joint Secretary-cum-Controller of Examination, Bihar School Examination Board, Patna. Respondents were further directed to

publish the result of the petitioner within two months from the date of order.

Heard learned counsel for the appellant, learned counsel for the State as well as learned counsel for respondent no.1 (Nagma Praveen).

From the materials available on record, it is apparent that it was not only the petitioner whose registration was cancelled but 150 such students who

had two registrations from two schools were cancelled and it was the specific case of the writ petitioner in her first writ petition being CWJC No. 717

of 2017 that she has only one registration number and she is regular student of one school and on such plea, she was permitted to appear in the

examination, subject to outcome of inquiry conducted by the Board in which it was conclusively found that she had two registration numbers from two

different schools for oblique purpose.

The learned Single Judge has found that petitioner had two registration numbers from two schools, however, she being minor cannot be held

responsible for the same and said malpractice may have been committed by her parents or her relatives.

The learned Single Judge has enlarged the scope of writ petition, as petitioner in her first writ petition had pleaded and also in terms of L.P.A. order, if

it was found that she has two registration numbers from two different schools, her candidature were liable to be cancelled. The inquiry conducted by

the Board had found petitioner having two registration numbers from two different schools and such finding is based upon the evidence collected from

the records maintained by both schools and there is nothing to discard such finding. The order passed is reasoned and speaking and findings are based upon proper appreciation of materials available on record.

In said view of the matter, there was no occasion for the learned Single Judge to travel beyond the ambit and scope of lis between the parties as

dispute between the parties was confined to whether the writ petitioner, as claimed, was regular student of one school having one registration number

or she took admission in two schools having two registration numbers, as contended by the Bihar School Examination Board. The inquiry conducted by

the Board found that petitioner had two registration number and finding recorded is based upon evidence/materials collected during inquiry. The finding

recorded by the inquiry committee is neither perverse nor based upon no evidence nor based upon any extraneous/irrelevant /non-existent

consideration, as such, there was no scope of any interference by the writ court in its writ jurisdiction.

For the reasons, as stated above, the LPA is allowed and the judgment and order dated 19.12.2019 passed by the learned Single Judge in CWJC

No.21368 of 2019 is set aside and writ petition is dismissed. No cost.