

(2003) 09 JH CK 0066
Jharkhand High Court
Case No: CMP No. 9 of 2003

Naresh Prasad Singh

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision: Sept. 17, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: AIR 2004 Jhar 63 : (2004) AIR Jhar HCR 263 : (2003) 4 JCR 386 : (2003) 2 LJLR 488

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: Delip Jerath, for the Appellant; A.R. Sarangi, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

M.Y. Eqbal, J.

The instant application has been filed by the Bihar School Examination Board who is respondent in CWJC No. 1805 of 2000(R) for modification of the order dated 13.2.2002 passed by this Court in the aforementioned writ petition.

2. The aforesaid writ petition CWJC No. 1805/2000 was filed by one Naresh Prasad Singh (hereinafter referred to as the petitioner) seeking writ of mandamus directing the respondent-Board to issue Matriculation Certificate of his son namely, Barun Kumar Singh who had appeared in 1997 examination conducted by the Bihar School Examination Board.

3. Petitioner's case is that his son was a regular student of Saraswati Vidya Mandir High School, Dhurwa, Ranchi and his name was registered in the Bihar School Examination Board, Patna (in short the Board). Petitioner's son appeared in the examination in the year 1997 in all the papers but his name was recorded as absent in all the papers. However, marks-sheet was issued to him declaring him pass with

first division. The Principal of the College also issued School Leaving Certificate and the petitioner's son took admission in intermediate in the college. Petitioner's further case was that matriculation certificate of his son was not issued for the reason that he was allegedly absent in all the papers. The aforesaid writ petition was disposed of on 13.2.2002 by passing the following order :--

"No counter affidavit has been filed by the respondent- Bihar School Examination Board, although this Court adjourned this case time to time from 4.7.2000. This Court has no option but to dispose of the writ application.

Mr. A. Sahay, learned counsel for the Board submitted that strike of the employees of the Board is going on for a month and therefore counter-affidavit could not be filed. Admittedly, the employees were not on strike in between July 2000 and January 2001 but no counter-affidavit was filed.

Laches and negligence on the part of the officers of the Bihar School Examination Board is apparent from the facts of the present case in which petitioner has been denied issuance of matriculation certificate although he passed with distinction. Petitioner appeared in the matriculation examination in 1997 after the Board had issued Admit Card being No. 124209. Although petitioner appeared in all the subjects in the relevant register he was shown absent in all the papers and therefore his result could not be declared. However, when the petitioner approached the Board, a marks-sheet was issued wherein petitioner was declared pass with 1st Division. Petitioner's son got admission in the College, but the Matriculation Certificate has not been issued to him despite several letters and reminders sent by the petitioner as also by the Principal of the School from where he appeared.

In view of the uncontroverted facts stated in the writ petition. I have no option but to direct the respondents, particularly, Secretary, Bihar School Examination Board, Patna to issue Matriculation Certificate in favour of the petitioner within a period of 30 days from the date of receipt/production of copy of this order.

With the aforesaid observation and direction, this writ application is disposed of."

4. Respondent-Board in this application (CMP No. 9 of 2003) stated that after receipt of the copy of the order dated 13.2.2002 on 23.8.2002 passed in the writ petition special messenger was deputed to Branch Office of the Examination Board at Ranchi to collect the concerned file and when necessary papers were examined it was found that petitioner's son was wholly absent in the examination, which was evident from the entry made in the tabulation register duly attested by the Secretary of the Jharkhand School Examination Board. It is alleged by the Board that the marks-sheet annexed with the writ petition is neither computerized marks-sheet nor it appears to have been issued by the Bihar School Examination Board.

5. It is contended that the petitioner has played fraud and mislead the Court and thereby obtained the order sought to be modified. This matter was heard at length

on different dates. On 31.7.2003 after hearing the parties, this Court passed the following order :--

"Heard the counsel for the parties.

It is only after coercive step was taken up this Court, the writ petition has appeared in person today. By filing an affidavit he has been disputing the allegations made by the Bihar Secondary School Examination Board.

Instead of calling all the documents including the dispatch register from the school, namely, BSV High School, Nivaranpur, Ranchi and the marks foil sent from the Evaluation Centre to the Board which is said to be lying in the office of the Jharkhand State Secondary School Examination Board, earlier branch office of Bihar State Secondary School Examination Board, I direct the Senior Superintendent of Police, Ranchi to hold an inquiry and investigate into the matter after seizing the aforementioned documents from the school and the office of the Examination Board and submit a report to this Court as to whether, in fact, the petitioner did appear in the Secondary School Examination from the abovenamed center in 1997.

Learned counsel appearing on behalf of the Board shall submit all the copies of the writ petition, the CMP and the affidavits to the Senior Superintendent of Police, Ranchi by Monday, (4.8.2003) along with a copy of this order. Let this matter come on 12.8.2003. On that date the petitioner shall appear in person."

6. The matter was again listed on 12.8.2003. The Sr. Superintendent of Police submitted report wherein he has stated that although name of the petitioner's son was registered for final examination for the year 1997 but he did not appear in the said examination and the answer book dispatch register does not include his roll number as absent. This Court, having not satisfied with the report of Senior Superintendent of Police, Ranchi directed the DIG (CID) to make investigation in the matter after collecting all the seized papers and after inspecting relevant records of the Board.

7. In compliance of the order of DIG (CID) submitted a detailed report dated 8.9.2003. From perusal of the report, it transpires that the DIG (CID) personally investigated the matter and for that purpose he examined the then Principal-cum-Centre Superintendent and other teachers of BSV School and also examined necessary documents. He also visited the office of the Secretary of Jharkhand School Examination Board and examined the Secretary and other staff and also examined the records. After thorough investigation and inquiry, he has reported that one Sri Narendra Tiwari who happens to be the Examination-in-Charge of Ranchi district was the resident of the same mohallah inhabited by the petitioner and it was Sri Tiwari who provided forged mark-sheet to the petitioner. He further reported that Sri Narendra Tiwari in spite of notice failed to appear before him. The Officer finally came to the following conclusion :--

"(i) The mark-sheet produced by the petitioner and which has been issued by Sri Narendra Tiwary Examination--in-Charge of Ranchi Distt. is totally forged (Annexure-8) and is not in a specified format. (Annexure-4).

(ii) The School-leaving certificate was issued by Sri Sheo Kr. Singh, the then principal of Sarswati Vidya Mandir on the basis of that forged mark-sheet without verifying with the cross-list.

(iii) The petitioner's son Sri Barun Kr. Singh appeared at the Examination from BSV High Court Nivaranpur bearing Roll No. 30 and Roll Code 1150, which is evident from the dispatch register of answer-sheet and statement of Smt. Sudha Mishra, the then Center Suptd. and other teachers.

(iv) The absence of the examinee in the tabulation register even after his appearance in the exam and sending the answer-sheet to evaluation centers is a matter of deep mystery and is a result of a deep rooted conspiracy. The petitioner's son used to get 40% marks before the Board exam and in intermediate examination also he got 45% marks approximately. The then Sr. Asstt.-cum-in-Charge of exam, Ranchi distt. Sri Narendra Tiwary was a resident of Dhurwa, which happens to be the residence of the petitioner also. It is highly possible that with the help of Sri Narendra Tiwary, the petitioner's son got first division in clandestine manner and it seems that they are part of this deep conspiracy. It is a very serious matter that answer books of all the subject of single students disappeared from all the twelve evaluation centers which were located in the different distt. of Bihar.

(v) During the course of enquiry, it transpired that Sri Narendra Tiwary in-charge of exam centers of Ranchi Distt. was known for his bad integrity and illicit indulgence. Hence the connivance of Sri Tiwary and the petitioner in procuring first division for Sri Barun Kumar with Roll-30, Roll Code-1150 cannot be ruled out.

Besides, administrative negligence, on the part of then Principal of Sarswati Vidya Mandir (Uchh Vidyalaya), Dhurwa, Ranchi who issued SLC to the petitioner's son without verifying cross list and without following laid down procedures in proved beyond doubt."

8. From the report of DIG (CID) it is prima facie clear that the petitioner managed to obtain a forged marks-sheet in the name of his son from Sri Tiwary who was not supposed to supply the marks-sheet to the petitioner. The Marks-sheet of the candidates who appear in the examination always sent by the Board to the concerned school from where candidates complete their study. In para 10 the writ petition, it is stated that when matriculation certificate was not supplied to his son, he made application to the Bihar School Examination Board. Copy of the application has been annexed as Annexure-6 to the writ application. In the said application, petitioner's son admitted that he received marks-sheet through Narendra Tiwary. This admission in the application fully substantiate the fact that petitioner managed a forged marks-sheet with the connivance of Sri Tiwary.

9. From perusal of the marks-sheet which has been annexed as Annexure-3 to the writ application, forgery is apparent inasmuch as marks-sheet was computerized and the candidate was shown wholly absent. But it was penned through and the word first division has been inserted by pen.

10. Taking into consideration the entire facts of the case and the report submitted by the DIG (CID), I am of the definite opinion that the petitioner obtained forged marks-sheet and on the basis of the said marks-sheet, he managed to get school leaving certificate. As a matter of fact, the petitioner did not appear in the examination of any of the subject, rather remain absent. The order-dated 13.2.2002 passed in the writ petition is fit to be recalled.

11. For the reasons aforesaid, this application is allowed and the order-dated 13.2.2002 passed is CWJC No. 1805 of 2000(R) in recalled. Respondent-Board is directed to initiated criminal prosecution against the petitioner and his son and other persons in whose connivance, petitioner, succeeded in committing forgery.