

**(2002) 09 PAT CK 0128**

**Patna High Court**

**Case No:** C.W.J.C. No. 7390 of 2002

Suman Kumari

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

---

**Date of Decision:** Sept. 16, 2002

**Citation:** (2003) 1 PLJR 124

**Hon'ble Judges:** Chandramauli Kr. Prasad, J

**Bench:** Single Bench

**Advocate:** R.S. Roy and Rana Bhupendra Nr. Singh, for the Appellant; S.D. Yadav, Sunil Kumar Thakur for Board and A.K. Choudhary, for State, for the Respondent

**Final Decision:** Allowed

---

### **Judgement**

@JUDGMENTTAG-ORDER

Chandramauli Kr. Prasad, J.

In this writ application prayer of the Petitioner is to issue a writ in the nature of mandamus commanding the Respondent, Bihar School Examination Board to issue provisional/original certificate and marksheet of Secondary School Examination, 1995.

2. Short facts giving rise to the present application are that the Petitioner was a student of Mahanth Hanuman Saran High School, Rajapur, Mainpura and she filled up the forms with requisite fee for appearing in the Secondary School Examination, 1995. Admit card was issued to her showing her centre of examination to be Dayanand Girls High School, Mithapur. The examination was to commence from 4th of April, 1995 and in the first session, examination of History subject was to be taken. It is the stand of the Petitioner that when she reached at the centre of her examination i.e. Dayanand Girls High School along with other students of her school, they were told that their examination centre has been shifted at Middle School, Kurji. Accordingly, she along with other students rushed to the Middle School, Kurji where they, were told by the Centre Superintendent of that school that

centre of the students of the Petitioner's school has not been fixed in that school. Because of shortage of time, it is the stand of the Petitioner that she along with other students persuaded the Centre Superintendent to allow them to appear in the examination of the first paper from the said centre. She was so allowed to appear and her result was declared and she has been shown to have secured 20 marks in the subject of History. She was ultimately declared to have passed the Secondary School Examination in 1st Division. On that basis, she was admitted to J.D. Women's College for her Intermediate education and she passed the Intermediate examination conducted by the Bihar Intermediate Education Council of the 1997 in the first division. Thereafter She has been admitted to B.A.M.S. course at Government Ayurvedic College, Bhagalpur.

3. It is the stand of the Petitioner that in order to pursue her studies in B.A.M.S. course she applied for the grant of provisional/original certificate of passing and the marksheet of passing the Secondary school Examination but the same has not been given.

4. Counter affidavit has been filed on behalf of the Respondent-Board and it is the stand of the Board that the Petitioner did not appear from the fixed centre and accordingly Unfairmeans Committee decide to cancel the result of the Petitioner.

5. Mr. Ram Suresh Roy, senior counsel appearing on behalf of the Petitioner submits that it is not only the Petitioner but other students of Mahanth Hanuman Saran High School, whose centre was fixed at Dayanand Girls High School, Mithapur were told that their centre has been shifted to Middle School, Kurji and on that basis the Petitioner appeared from Middle School, Kurji. He points out that the act of the Petitioner in appearing from Middle School, Kurji cannot be said to be with any oblique motive, as the Petitioner had appeared in only one subject at Middle School, Kurji and in that subject she had obtained 20 marks out of 50. He draws my attention to the proceeding of the Unfairmeans Committee (Annexure-B) and contends that the result of the Petitioner, whose Roll No. is 155 has not been cancelled for use of unfair means in the examination but on the ground that she had not appeared in Geography paper. Learned Counsel highlight that in the Geography paper the Petitioner had appeared from the centre fixed. From the aforesaid submission learned Counsel contends that it is a fit case in which the Respondent-Board be directed to issue provisional/original certificate and the marksheet.

6. Learned Counsel appearing on behalf of the Board, however, submits that the Petitioner did not appear from the centre fixed and as such Respondent-Board did not err in cancelling her result.

7. Having appreciated the rival contention, I find substance in the submission of Sri Roy. The Petitioner had appeared in only one subject from the Middle School, Kurji centre and there is no allegation of the Respondent-Board that any unfair means

was resorted to by the Petitioner while appearing from the said centre. The marks obtained by the Petitioner in the subject in which she appeared from other centre is not such comparable to marks obtained in the subjects in which she appeared from the fixed Centre, which indicates use of unfair means. In case the Petitioner was not entitled to appear from the said centre, in my opinion, Centre Superintendent ought not to have allowed her to appear. Not only this, on the basis of the passing the Secondary School Examination, she was admitted to the Intermediate course and she had passed the said examination in first division. Thereafter she had been admitted to B.A.M.S. course. At such a distance of time, I am not inclined to uphold the contention of the Respondent-Board that Petitioner appearing from different centre in one paper, in the circumstances indicated above, justifies cancellation of her result. Respondent-Board is directed to issue the provisional/original certificate as also the marksheet to the Petitioner after complying the necessary formalities within four weeks. Those documents shall not be denied to the Petitioner on the ground that her result has been cancelled.

8. In the result, the application is allowed with the aforesaid direction. No costs.