

Mamta Kumari Vs. Bihar School Examination Board and ors.

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Court : Jharkhand

Decided On : Jan-30-2002

Reported in : 2002(50)BLJR663

Judge : Tapan Sen, J.

Acts : Education Law

Appeal No. : WP (C) No. 3213 of 2001

Appellant : Mamta Kumari

Respondent : Bihar School Examination Board and ors.

Advocate for Def. : A. Sahay and; Manoj Prasad, Advs.

Advocate for Pet/Ap. : M.M. Pan and; A. Minz, Advs.

Disposition : Application allowed

Judgement :

ORDER

Tapen Sen, J.

1. Heard.

2. In this case the petitioner has made a prayer, inter alia, for a direction upon the respondent to provide mark-sheet and certificate and also for issuance of an appropriate writ for quashing the order dated 29.06.2000 as contained in annexure-7 to the writ application whereby and where under the Deputy Secretary, Bihar School Examination Board, Patna (Respondent No. 2) directed the Head Mistress, Project Girls' High School, Kuru, not to issue any certificate against students whose names had been marked with the remark 'withheld'. The petitioner, Mamta Kumari, has stated that she appeared as a private candidate through Project Girls' High School, Kuru in the Annual Secondary Examination, 2000. She has also stated that prior to her appearance in the said examination, she had deposited the requisite fees for her registration and that she had been registered by the Examination Board vide annexure-4 and was given Registration No. 0131/014/02079/99. The petitioner has also stated that all necessary papers were duly scrutinised by the Board and only, thereafter, when the Board was satisfied with regard to the eligibility of every student concerned that she was allowed to appear. She was also allotted Roll Code No. 01302 and her Roll No. was 0992. Her centre was Ursuline Convent High School, Lohardaga.

3. The petitioner has also stated that she, thereafter, appeared in all the subjects both, theoretical as well as practical. However, when the crossed list was issued it was found that although she had passed in the second division, yet, a remark had been inserted saying 'withheld'.

4. The petitioner, thereafter, made several representation before the Principal, but the Principal showed inability to issue mark-sheet, school leaving certificate, etc. Having been faced with such harassment at such a tender age the petitioner has been compelled to move this Court in this writ petition. This writ petition was filed on 23.07.2001 and on the next date i.e. 24.07.2001 this Court directed the respondent to file counter affidavit within four weeks.

5. A counter affidavit has been filed in the instant case on behalf of the respondent Board duly sworn by its Law Officer. At para-graph-5, the deponent to the counter affidavit has stated that the Deputy Commissioner, Lohardaga was requested to send an inquiry report relating to the authenticity of the private students so that

result of such students fulfilling the eligibility criteria could be published.

6. It was, perhaps, on the basis of such a statement that an order was passed by this Court on 04.12.2001 asking the School Examination Board to seek instructions and state as to whether any such report had actually been sent by the Deputy Commissioner, Lohardaga.

7. It appears that even after such order, no such specific answer has been given by the counsel for the School Examination Board stating that the Deputy Commissioner, Lohardaga had in fact submitted any report.

8. The stand taken by the respondent Board appears to be an excuse to evade the due process of Law on the one hand and also amounts to encouraging frustration amongst school going children who would be future citizens of India. The procedure, in relation to holding of such examinations is so explicit that even prior to students appearing in the examination, all care and caution is taken, all inquiries are made and the process of finally allowing these young children to appear is put to rest on the allotment of registration number, Roll number and the issuance of Admit Card. One fails to understand as to what further inquiry can be possibly conceived of and that too, after a young boy or a girl has already faced the rigours of sitting in the examination.

9. This Court is of the opinion that such actions sought to be assailed in this writ application is extremely arbitrary and, in fact, it amounts to harassment by the State and that too, upon the extremely younger generation who would be future citizens of India.

10. Such a situation must be prevented. Once the basic preliminary procedures are conducted and a candidate is allowed to sit in the examination the State thereafter, cannot be allowed to withhold his/her results or mark sheet on the ground of further inquiry because all inquiries are deemed to have been completed once the student is allowed to sit in the examination and complete writing/appearing in all the subjects.

11. The facts in this case are also similar to the ones brought on record by the petitioner by Annexure-9 series.

12. It is also to be noted that the cross list (Annexure-6) also shows the petitioner to have passed in the second division.

13. In view of the what have been stated above, there is no justification in withholding her result any longer.

14. In that view of the matter the respondent Board is directed to immediately issue the necessary mark-sheet and declare her result.

This writ application is allowed.

There is no order as to costs.

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