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IN THE HIGH COURT OF JUDICATURE AT PATNA

CWJC No.15212 of 2008

Jankee Ballabh Pandey, S/o Shri Raghawendra Sharma, resident of
Village – Bandey, P.S. Patoree, P.S. Patoree, District – Samastipur
..... Petitioner

Versus

1. The State of Bihar (through the Chief secretary, Old Secretariat Bihar, Patna
2. Bihar Public Service Commission (through its Deputy Secretary) Jawaharlal Nehru Marg, Bailey Road, Patna
3. The High Court of Judicature at Patna (through its Registrar General) Bihar, Patna.

.....Respondents

For the Petitioner : Mr. Ajay Kumar Ambastha, Advocate
Ms. Archana Palkar Khopre, Advocate

For the Respondent no. 1 : Mr. Rajesh Kumar Singh, J.C. to AAG II
For the Respondent no. 2 : Mr. Lalit Kishore, Senior Advocate
Mr. Satyabir Bharti, Advocate

PRESENT

**Hon'ble the Chief Justice
&
Hon'ble Mr. Justice Kishore K. Mandal**

Dated, the 7th November, 2008.

This is second round of litigation at the instance of the petitioner.

2. In the competitive examination held by the Bihar Public Service Commission (for short, 'the Commission'), for appointment to the post of Civil Judge (Junior Division), vide advertisement no. 43 of 2005, the petitioner appeared. In one of the papers, viz., Hindu Law and Mohammedan Law, although, the examiner awarded 113 marks but the Commission cancelled his

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examination on the ground that the answer sheet contained marks of identification by use of highlighters.

3. In the first round of litigation, this Court vide its order dated 6th February, 2008, directed the Commission to examine the matter afresh uninfluenced by its earlier decision.

4. In pursuance of the order of this Court dated 6th February, 2008, the Commission re-examined the petitioner's case and found that the petitioner's answer book contained marks of identification by use of green and yellow colour marking. The Commission cancelled the examination of other candidates as well where such colour markings were used. The petitioner was thus communicated vide letter dated 29th April, 2008 by the Commission that his examination stands cancelled.

5. The counsel for the petitioner would urge that by use of highlighters and marking pen, the petitioner sought to emphasize marked portion of answers and it was not intended as a mark of identification of the answer book.

6. We are afraid, the contention of the counsel cannot be accepted. The use of highlighters and marking pen by highlighting portions of certain answers in green and yellow colour exposed the answer book to identification and the secrecy was lost which deserved cancellation of petitioner's examination. As a matter of fact, the Commission, in its letter dated 29th April, 2008, informed the petitioner that in respect of other examinees having used such marks, their

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examinations have also been cancelled. This statement in the letter dated 29th April, 2008 goes unchallenged. No material has been placed by the petitioner to show otherwise.

7. Writ petition does not deserve to be admitted. It is dismissed in limine.

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R.M. Lodha, CJ

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Kishore K. Mandal, J.

Anil/

sd
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