

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10499 of 2014

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Amit Pratap Roy son of Brinda Prasad Roy, resident of Qtr.No. T/32 Postal Colony Barmasi, Post, District Katihar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, New Secretariat, Patna
2. The Director, Higher Education Department, Bihar, Patna
3. The Vice Chancellor, B.N.Mandal University, Laloonagar, Madhepura
4. The Registrar, B.N.Mandal University, Laloonagar, Madhepura
5. The Controller of Examination, B.N.Mandal University, Laloonagar, Madhepura
6. The Principal, D.S.College, Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Ataur Rahman, Advocate
For the Respondent Nos.1 and 2 : Mr. Sanjeev Kumar, AC to SC 1
For the Respondent Nos. 3 to 5 : Mr.Mithilesh Kr.Rai, Advocate
For the Respondent No.6 : Mr. Nitiranjana Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 13-01-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents, particularly, the respondent nos. 3 to 5, to publish his result of B.A. (History Hons.) Part III examination held in the year 2012 and accordingly issue the marksheet to him.

3. It is the case of the petitioner that he was admitted in three years degree course of Bachelor of Arts (Hons. in History) at D.S.College, Katihar, a constituent unit of B.N.Mandal University, Laloonagar, Madhepura (in short "University in question"). Registration No. 4177/06 was issued to the petitioner by the competent authority of the University for the Session 2005-2008. The petitioner appeared in B.A. (History Hons.) Part I examination from the college in question held in January, 2007

and he was declared to have passed the aforesaid examination. It is further case of the petitioner that he appeared in B.A.(History Hons.) Part II examination from D.S.College, Katihar held in December, 2008 and result was accordingly published and he was declared to have passed. The marksheets issued to the petitioner for B.A.(History Hons.) Part I and Part II have been brought on record as Annexures- 1 and 2 respectively to the writ petition.

4. Learned counsel appearing on behalf of the petitioner submits that thereafter the petitioner filled up his examination form for appearing in B.A.(History Hons.) Part III examination from D.S.College, Katihar. His examination form was duly forwarded by the Principal of the college in question and accordingly Admit Card was issued to him by the competent authority of the University in question. Copy of the Admit Card has been brought on the record as Annexure-3 to the writ petition. It is contended that the petitioner thereafter was allowed to appear in the aforesaid B.A.(History Hons.) Part III examination in all the papers held in July, 2012, yet, his result has been held up by the University without any valid justification, though the result of the other candidates have been published. It is further contended that action of the respondent University and its functionaries is not sustainable in law.

5. Separate counter affidavits have been filed on behalf of the respondent nos. 3 to 5 as also the respondent no.6 besides the respondent nos. 1 and 2. Learned counsel appearing on behalf of the respondent nos. 3 to 5 submits that there has been infraction of Regulation 8 of the University. Therefore, the result of the petitioner has rightly not been published. Copy of the regulation has been brought on the record as Annexure-A to the

counter affidavit filed on behalf of the respondent nos. 3 to 5.

6. After having heard the parties and on examination of the materials available on the record, this Court finds that the facts pleaded on behalf of the petitioner in the writ petition with respect to his admission in B.A.(History Hons.) course and his appearance in B.A. Part I and Part II Examinations and consequent publication of his result by the University are not in dispute. The fact that the petitioner was allowed to appear in B.A.(History Hons.) Part III Examination in the year 2012 is also not under dispute. However, the learned counsel appearing for the respondent nos. 3 to 5 has pleaded that the petitioner appeared in B.A.(History Hons.,) Part III examination in the year 2012 after a gap of four years, hence, in view of the provision contained in Regulation 8, he could not have been allowed to appear in that examination as a regular student, but could have been allowed to appear in that examination as a non-collegiate student. From the plain reading of Regulation 8, it appears that on the ground of infraction of Regulation 8, the University could have refused to issue Admit Card to the petitioner for his appearing in B.A.(History Hons.,) Part III examination as a regular student, but that was not done. Indisputably, the respondent no.6, the Principal of the College in question, forwarded the examination fees and form of the petitioner though it is, now, pleaded that it was done on account of bona fide mistake, and thereafter the University in question issued the Admit Card to the petitioner (Annexure-3) and he was allowed to appear in the Examination. Apparently, the respondent nos. 3 to 6 did not exercise their powers under Regulation 8 of the University since they admittedly issued the Admit Card to the petitioner and allowed him to take part in his

examination of B.A. (History Hons.) Part III. Once the respondents have failed to exercise their powers in terms of Regulation 8 at an appropriate stage, then they cannot be permitted to exercise such powers at this belated stage for the purposes of publication of result of the petitioner of B.A.(History Hons.) Part III Examination.

7. In the factual matrix of the case, this Court is of the opinion that no useful purpose shall be served in not publishing the result of B.A. (History Hons.) Part III examination of the petitioner. Nobody will be the gainer. Whether the petitioner could have been allowed to take the aforesaid examination as a regular student or a non-collegiate student would make absolutely no difference so far the degree in question is concerned. In fact, on account of impugned action of the respondent nos. 3 to 5, the career of the petitioner has adversely been affected.

8. For the reasons recorded above, the respondent nos. 3 to 5 are hereby directed to publish the result of B.A. (History Hons.) Part III Examination of the petitioner held in the year 2012 at an early date preferably within a maximum period of one month from the date of receipt/production of a copy of this order. After publication of that result, the respondents shall be further obliged to issue marksheet of B.A. (History Hons.) Part III Examination to the petitioner.

9. In the result, the writ petition stands allowed to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

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