

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17287 of 2014

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1. Dimple Kumari D/o Ram Bilash Singh, W/o Jai Mangal Singh R/o Chotimahadi Pokhar, P.O. Bhagaiya, P.S. Ishipur Barahat, District Bhagalpur.
 2. Raman Kumar Rajak S/o Late Baiju Rajak R/o Rohia, P.O. Belbari, P.S. Shalmari, District Katihar.
 3. Riyanshee Raj D/o Shyam Kishor Prasad, W/o Sanjeev Kumar R/o Pani Tanki Takiyapur, P.S. Danapur, District Patna.
 4. Mohamammad Anjar Alam S/o Md. Zahiruddin R/o Pokhria Belwari via Shalmari, P.S. azam Nagar, District Katihar.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Higher Education, Human Resources Development Department, Government of Bihar, New Secretariat, Patna-1.
2. The Vice Chancellor, Nalanda Open University, Biscomaun Bhawan, Patna.
3. The Examination Controller, Nalanda Open University, Biscomaun Bhawan, Patna.
4. The System Assistant, Nalanda Open University, Biscomaun Bhawan, Patna.
5. The Registrar, Nalanda Open University, Biscomaun Bhawan, Patna.
6. The Joint Registrar, Nalanda Open University, Biscomaun Bhawan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Madhav Roy
Mrs. Kanti Jha
Mr Rabindra Nath Tiwary
For the State : Mr Apurva Kumar, AC to GA 11
For the University : Mr Navin Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 25-03-2015

The four petitioners before the Court have assailed the letter dated 16.8.2014 issued under the signature of the Registrar of Nalanda Open University, by virtue of which the earlier result declared in favour of these petitioners for various streams of subject in graduate level has been cancelled. By virtue of this order, the

candidates have also been informed that they are free to sit in a fresh examination/ special examination to be conducted by the University.

The reason for issuance of Annexure- 1 is that it was detected during the course of random check done by the Registrar of the University that many a candidates, which included the present petitioners, have been shown to have got more marks in the marks-sheet vis-a- vis the marks awarded in their answer sheets. A deeper look into the matter did confirm the suspicion that one of the employees of the University, who was working as a Data Operator/ Assistant, had a role to play in such manipulation of marks awarded to the candidates. The number of candidates, who are detected with this kind of irregularity, was a little over 300, therefore, in the interest of purity of maintenance of records and results, Annexure- 1 came to be issued.

Learned counsel representing the petitioners had many a submissions to make. None of those submissions are appreciable in light of the evidence produced by counsel representing the University. In a very fair manner the Nalanda Open University counsel produced the answer-sheets of the four candidates and it was even tendered to the counsel of the four petitioners to peruse things for himself. That was a complete answer to all the legal submissions which was being made or could be made on behalf of the petitioners

in assailing Annexure- 1.

There cannot be any dispute or argument that no candidate or examinee can be given or shown to have been awarded more marks than what was earned for him/her in the evaluation carried out by the University. There is no manipulation of any kind in the evaluation and the marks awarded by the University in various papers which are subject matter of controversy. The marks awarded in the answer-sheets shall be the only marks which can form the basis for declaration of result. This Court has further no hesitation in recording that these petitioners or all such candidates, who have ended up with higher marks than what they have earned in the answer-sheets, are direct beneficiaries of the manipulation. Therefore, they are as much guilty as the person, who manipulated the system to their advantage. This can be safely inferred for the reason that more than 3000 students appeared in various examinations and this discrepancy has emerged only with regard to 300 odd candidates.

On a request of the Court, the Vice Chancellor and the Registrar of the University are present in Court. The Court wanted to know the remedial steps, which have been taken as well as what was done to redeem the situation where the interest of the students and the prestige of the institution both are maintained.

The Vice Chancellor informed the Court that instead of one, two special examinations have been conducted by the University giving full opportunity to all such candidates to participate and earn a fair and honest degree.

Out of the four petitioners here, two have appeared. Their results are awaited but two other candidates, who are petitioners no.2 and 4, have not appeared in either of the two examinations.

A prayer is made on behalf of these two petitioners that since they are pursuing their education at post graduate level, they should be permitted to continue with higher education without any let or hindrance. This will be an unacceptable and unreasonable prayer to allow because unless a candidate clears his examination at lower level, he cannot pursue his higher studies without passing the graduation level examination. In this regard, the relief which the petitioners are looking for can only be granted in terms of the regulation or the statute which governs such matters of the University. No extra indulgence in the given facts and circumstances are required to be shown to the two petitioners. The Vice Chancellor will take an appropriate decision in this regard and communicate the same to the two petitioners and may be render his advice as well as to what the two petitioners shall do.

In the totality of the facts, therefore, which has been dealt

by this Court in the earlier part of the order, the writ application is required to be dismissed.

(Ajay Kumar Tripathi, J)

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