

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9323 of 2014

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Dr. (Prof.) Anwar Halim Anwar, son of Late Najmul Hoda, Principal of
S.M. Zaheer Alam Teachers Training College, P.S. + P.O.- Bahera, District-
Darbhanga (Bihar).

.... Petitioner.

Versus

1. The Lalit Narayan Mithila University, Darbhanga.
2. The Vice Chancellor of the Lalit Narayan Mithila University,
Darbhanga.
3. The Registrar of the Lalit Narayan Mithila University, Darbhanga
4. The Controller of Examination, Lalit Narayan Mithila University,
Darbhanga

.... Respondents

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Appearance :

For the Petitioner/s	:	Mr. P. N. Shahi, Sr. Advocate Mr. Sarvadeo Singh, Advocate Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Ajay Behari Sinha,
For L.N.M. University	:	Mr. Yugal Kishore, Sr. Advocate Mr. Chandra Mohan Singh, Advocate
For the interveners	:	Mr. R. S. Pradhan, Sr. Advocate Mr. J. P. Verma, Advocate
For Intervener (Students)	:	Mr. Suresh Chandra Giri, Advocate

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**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA
PRATAP SINGH**

C.A.V. JUDGMENT

Date: 17-03-2015

S. M. Zaheer Alam Teachers Training College

(hereinafter referred to as 'the College') is a training College, as the name suggests and imparts training in Bachelor of Education. It is run by a registered society, namely, Rauf Muslim Jamia, Bahera, Darbhanga. The College is affiliated to Lalit Narayan Mithila University, Darbhanga, which conducts examination and grants degree. The Management of Society and subsequently the control of the College has been a matter of claim and counter claim between the



two brothers, namely, S. M. Ali Imam and S. M. Naiyer Imam, son of late S. M. Zareef, the founder of the Society. Both of them claimed to be the Secretary of the Society and in control of the College. The petitioner Dr. (Prof.) Anwar Halim Anwar, who belongs to the faction of S. M. Alia Imam, has filed the writ application in the capacity of Principal of S.M. Zaheer Alam Teachers Training College and belongs to the faction of S. M. Ali Imam.

2. In this writ petition, he seeks direction to the university to accept the examination fees and forms and to issue admit cards to the students of his College for B. Ed. Course for the Sessions 2013-14, the examination of which was to commence from 21.05.2014.

3. In course of hearing of the case, a number of intervention petitions were filed, including some by students. One of the intervention petitions was of S. M. Naiyer Imam bearing I.A. No. 4068 of 2014 vehemently opposing the prayer made in the writ application. According to S. M. Naiyer Imam, the Managing Committee run by him is the real one, and as such forms and admit cards should not be issued on request of the petitioner or on request of S. M. Ali Imam, who have no locus in the matter. Interlocutory application was entertained and is allowed.

4. An interlocutory application, bearing I.A. No. 4076 of

2014, has been filed by the students of College represented by Mr. Shrawan Kumar, learned Senior Advocate, to accept the examination fees and forms and issue admit card as per the lists of the students submitted by the writ petitioner. The interveners in effect are in support of writ petition.

5. I.A. No. 9471 of 2014 has been filed on behalf of some more students for a direction to the respondent University to accept their fees and forms and to issue admit card.

6. This Court after hearing the parties including the intervener S. M. Naiyer Imam, by order dated 26.05.2014 directed the respondents to accept the examination fees and forms and to issue admits cards, to enable the students of petitioner's College to take part in the forthcoming examination, with a rider that the result of the students would not be published, which would be subject to the result of the writ application.

7. Later on some more intervention applications, all on behalf of different students, came to be filed, bearing I.A. No. 4076 of 2014, I.A. No. 9356 of 2014 and I.A. No. 9471 of 2014 with a prayer to issue directions to the respondent University to accept their fees and forms and issue admit card for appearing in the examinations. These Interlocutory applications were kept on record.

8. One I.A. No. 8875 of 2014 was filed on behalf of the

students, who were allowed in the examination pursuant to the interim order of this Court dated 26.05.2014, for direction to the respondents to publish their results in view of subsequent orders of Division Bench passed in L.P.A. No. 411 of 2014 heard analogous with L.P.A. No. 394 of 2014.

9. The prayer was opposed by the intervener S. M. Naiyer Imam as well as by learned counsel appearing for NCTE and the University, but for different reason.

10. It is not in dispute that the College situated in Bahera in the district of Darbhanga is affiliated to Lalit Narayan Mithila University, Darbhanga w.e.f. 1984 vide University notification dated 28.02.1996.

11. The short preclude leading to filing of the writ petition, the foundational facts on which the writ petition is based, as well as diametric opposing stand of the intervener S. M. Naiyer Imam has been elaborately noticed in order dated 29.05.2014.

12. Para. 1 to 18 of order dated 29.05.2014, which gives a brief insight of the matter and the issues involved, is quoted herein below in order to avoid repetition.

“The petitioner is Principal of S. M. Jaheer Alam Teachers Training College situated in Bahera in the district of Darbhanga.

2. The College has been granted affiliation to the L.



N. Mithila University, Darbhanga w.e.f. 1984 vide University notification, dated 28.02.1996. The institution is also recognized by National Council of Teacher Education vide its order, dated 22.06.1998, with intake capacity of 150 students, which was subsequently, enhanced to 200 by order, dated 03.12.2008.

3. The Vice Principal of the College in its letter, dated 02.01.2014, addressed to Examination Controller of the University requested for issuance of Registration Form for the registration of the students in B. Ed. Course for the Session 2013-14. The Examination Controller accepted the examination fees and issued registration card of the concerned students. The University vide its notification, dated 14.03.2014, notified to all concerned for filling up Examination Forms of B. Ed. Examination, 2014 by 31.03.2014 and with fine up to 07.04.2014. The Vice Principal of the College wrote a letter along with the prescribed fee for issuance of Examination Form of admitted students, whose registration was already done. In the meantime, the University extended the date for accepting the fees and forms up to 15.04.2014 vide notification, dated 22.03.2014. The Examination Forms were supplied to the College on 18.03.2014 for the Sessions 2013-14. The petitioner within time met the Examination Controller and requested for acceptance of



“Examination Fees” as well as filled up “Examination Form”. The latter refused to accept the same for the present. The petitioner thereafter approached to the Registrar, Controller of Examination and Vice-Chancellor, but unsuccessfully. Instead, the University issued a notification on 06.05.2014 constituting an enquiry committee to look into the affairs of the College as well as to ascertain valid members of Rauf Muslim Jamia (RMJ), Bahera, Darbhanga, which runs the College. The committee never visited the College. The petitioner supplied all the documents required and the committee assured that the Examination Fee and Forms would be accepted and the admit card would be issued. But in spite of repeated persuasion and reasonings, the Fee and Forms were not accepted, the petitioner has moved this Court for direction to the University to accept the Examination Fee and filled up Examination Forms and to issue admit card to the students of petitioner’s College for B. Ed course for the Session 2013-14. The theory examination was to begin from 21.05.2014 and the examination of second paper was held on 27.05.2014.

4. The reasons for not accepting the Examination Fee and Forms finds place in the counter affidavit.
5. The University in paragraph 4 of the counter affidavit stated that the College in question is run



by a registered society, namely, Rauf Jamia Bahera, Darbhanga, a Trust being Minority Institution. Mr. S. M. Naqui Imam was the founder Chairman and S.M. Naiyer Imam was founder Secretary of the society. At present S.M. Ali Imam and his full brother S.M. Naiyer Imam are claiming to be the Secretary of the said society, which is the central core of the dispute. Both of them are claiming to be the real owner of the society. Both groups have taken respective admission of students for B. Ed. Course. As there was a dispute, as to who is the genuine owner of the society, the University found it difficult to issue admit card and to take Examination of students forwarded by the College.

6. In paragraph 5 of the counter, the University further stated that the petitioner, who is the Principal, belongs to the group laid by S.M. Ali Imam. In paragraph 6 of the counter affidavit, the University stated that S.M. Naiyer Imam claiming to be the real Secretary of College in question, gave a representation on 30.03.2014 to the Vice Chancellor and others stating that the Governing Body of the registered society headed by S.M. Ali Imam is not valid as per order, dated 14.02.2014, passed by this Court in C.W.J.C. No. 1983 of 2014 and letter No. 83, dated 28.02.2014, issued by the Department of Registration. It has further been stated in paragraph 6 of the counter affidavit



that one Aquil Ahmad Khan gave representation, dated 12.04.2014, stating that S. M. Naiyer Imam has been removed from the post of Secretary of the Governing Body of the society on 19.05.2012. Furthermore, the Hon'ble Court vide its order, dated 04.10.2012, passed in CWJC No. 16119 of 2012 filed by S.M. Naiyer Imam refused to interfere in the Bank operation, because of the dispute, the Vice Chancellor constituted a five man committee on 06.05.2014 to examine the matter.

7. A Supplementary counter affidavit has been filed on behalf of the University on 27.05.2014 controverting the allegations made against the Vice Chancellor by the parties. In paragraph 9 of the supplementary counter affidavit, the University stated that in case, the writ application filed by the petitioner is allowed by the Hon'ble Court, the University will take Special Examination of the students of the college in question.

8. Mr. Manglam, learned counsel appearing for the intervener petitioner, submits that the institution came to be run by the intervener petitioner is the genuine institution. In support of his submission, he has referred to letter No.1035, dated 29.11.2013, of Assistant Inspector General of Registration, Darbhanga Division, wherein he has observed that the notification removing S.M.



Naiyer Imam from the post of Secretary is illegal, whereas the notification issued by S.M. Ali Imam does not appear to be correct. He further submits that the Assistant Inspector General of Registration, subsequently, vide Memo No. 49, dated 27.01.2014, (R-17) without meeting the grounds, wrongly recognized the committee of Dr. S. M. Ali Imam, as the valid committee of the Rauf Muslim Jamia. S.M. Naiyer Imam, the rival fraction of petitioner's group, moved this Court vide CWJC No.1983 of 2014. The learned Single Judge of this Court, vide order, dated 14.02.2014, quashed the communication containing the decision of Inspector General of Registration as available in Memo No.49, dated 27.01.2014. Both the petitioner as well as respondent No.7 were directed to appear before the Inspector General of Registration with all materials in support of their cases. The learned Single Judge further observed that upon their appearance, the Inspector General of Registration will fix a date and after hearing the parties will pass a speaking order.

9. On the other hand, Mr. Shahi, learned counsel appearing for the petitioner submits that the operation of order, dated 14.02.2014, passed in CWJC No.1983 of 2014 quashing the notification of the Inspector General of Registration in favour of committee of Dr. S. M. Ali Imam, issued under the signature of Assistant Inspector General of



Registration holding the committee of Dr. S.M. Ali Imam was stayed. In other words, in view of the stay order granted by the Division Bench in LPA No. 411 of 2014, the committee of S.M. Ali Imam would continue to be recognized as valid committee and as such the prayer of the petitioner's institute was fully maintainable and fit to be allowed.

10. Mr. Shahi, learned senior counsel further submits that appropriate remedy for the other faction was to move in suit, in case, it was aggrieved with the removal of S.M. Naiyer Imam from the post of Secretary. Furthermore, this Court have held that a committee set up by the University would not an appropriate body which could examine whether other faction was rightly or wrongly removed, and as to who would be the real Secretary of an institute run by minorities.

11. Mr. Mangalam, learned counsel for the intervener has referred to the letter dated 02.05.2013 said to be written by Anwar Halim Anwar belonging to petitioner's faction, and he also referred to a letter purported to be written by S. M. Ali Imam recognizing the position of intervener, which fact has been controverted by Mr. Shahi, as having been written by latter.

12. Mr. Pathak, learned counsel appearing for NCTE submits that a Public Interest Litigation has been filed making allegations that the institution is



selling degrees by allowing unauthorized students to appear through its institutions. He submits that already NCTE has directed the Regional Headquarter, Bhubneshwar to make an enquiry, which has endorsed the complaint to the Vice Chancellor of the University. He submits that the institution has not complied with some directives issued by NCTE and the recognition was only conditional.

13. Mr. Shrawan Kumar, learned senior counsel appearing for the intervenor vide I.A. No. 4076 of 2014 submits that because of fight between two brothers, the students may not be allowed to suffer and already the University has accepted the Fee and registration of the students, and such students in whose favour the registration Forms have been issued be given Admit Card for appearing in the examination. He submits that the students may not suffer for no fault of their own.

14. Mr. Manglam submits that the interveners do not find place in the list of 66 students. Mr. Shrawan Kumar, learned Senior Counsel appearing for the students clarifying the said stand, submits that these 66 students are of other Universities, who have taken registration under L.N.M. University and as such they do not comprise all the students of the institute and as such it is wrong to state that interveners are not registered students of the institution.

15. I have heard the learned counsel for the parties.

16. It would appear from the facts recorded in foregoing paragraphs that there is no dispute that the institution is affiliated to L.N. Mithila University and has recognition from NCTE. The main dispute is whether the committee run by S.M. Ali Imam to which faction, the petitioner belong or the committee run by S.M. Naiyer Imam, the own brother of S.M. Ali Imam, is the real committee. The petitioner belongs to the faction of S.M. Ali Imam.

17. It would appear from the Memo dated 27.01.2014 issued by the Registration Department under the signature of Assistant Inspector General of Registration that the committee run by S.M. Ali Imam is the valid committee. Though the aforesaid order was quashed by learned Single Judge vide order dated 27.01.2014, passed in CWJC No.17397 of 2013, the same has been stayed by a Division Bench of this Court vide order, dated 13.03.2014, passed in LPA No.411 of 2014. The resultant effect is that the order of the Division Bench revives the order of Inspector General of Registration, which has declared the committee run by S. M. Ali Imam as valid. Furthermore, the Fee and Form deposited by the petitioner's institution was earlier accepted for the Session 2011-12, 2012-13. In view of these facts and in view of the order of the L.P.A. Bench, I



find that the petitioner has made out a case for issuance of a direction to the respondents to accept the examination Fee and Forms and to issue necessary Admit cards etc. so that students may take part in the examination, as such, I direct accordingly. Nonetheless, the result of the petitioner's institution would not be declared, which would be subject to the result of this writ application or till further orders of the Court. The University in view of its affidavit will conduct Special Examination as stated therein and in particular for the papers missed out.

18. Put up this case under the heading "For Admission-I" on 07.07.2014 before the appropriate Bench."

13. Mr. Shahi learned senior counsel appearing for the petitioner submits that order dated 27.01.2014 of the Assistant Inspector General Registration, Patna recognizing the Committee of S. M. Ali Imam, which was quashed vide order dated 14.02.2014 in C.W.J.C. No. 1983 of 2014 on which the intervener S. M. Naiyer Imam relied in support of his claim, was reversed in L.P.A. No. 411 of 2014 vide order dated 04.08.2014. A copy of the order has been annexed as Annexure-1 to I.A. No. 8875 of 2014.

14. On the strength of the order of the Division, learned counsel appearing for the petitioner submits that the order of the Assistant Inspector General Registration, Patna dated 27.01.2014

recognizing the Committee headed by S. M. Ali Imam, as the valid committee, has attained finality and as such on these basis I.A. No. 8875 of 2014 has been filed for declaration of the result.

15. There seems force in the submission of learned counsel for the petitioner. As the order dated 14.02.2014 passed in C.W.J.C. No. 1983 of 2014 setting aside the order dated 27.01.2014 of Assistant Inspector General Registration, Patna recognizing the committee of S. M. Ali Imam, as the valid Committee, was stayed in L.P.A. No. 411 of 2014, this Court had directed the respondents to accept the fees and forms of the list of students presented by the petitioner and allow them to take part in the examination with a rider that the publication of the result would be subject to result of this writ application. This Court allowed the students to appear in the examination with the aforesaid rider, as the L.P.A. No. 411 of 2014 was still pending consideration before the Division bench. Now that the L.P.A. No. 411 of 2014 was allowed and order dated 14.02.2014, passed in C.W.J.C. No. 1983 of 2014 was set aside, this Court in such circumstances and in the interest of justice, direct the respondents to publish the result of the students, who were registered for the Sessions 2013-14 and appeared in the examination pursuant to the order of this Court.

16. It is worth while to notice that the Division Bench



while allowing L.P.A. No. 411 of 2014 filed by S.M. Ali Imam and dismissing L.P.A. No. 394 of 2014 filed by the intervener (S. M. Naiyer Imam) observed that the dispute between the parties needs adjudication by a competent court of civil jurisdiction. The relevant portion of the order dated 04.08.2014, passed in L.P.A. No. 411 of 2014 (Annexure-1 to the I.A. No. 8875 of 2014) is quoted herein below for easy reference:

“39. For the reasons, which we have already indicated above, particularly, the fact that a Division Bench of this Court has already upheld the order, dated 04.10.2012, passed in CWJC No. 16119 of 2012, whereby the Court has concluded that the dispute between the parties needs adjudication by a competent court of civil jurisdiction, we do not find that the impugned order, dated 27.01.2014, whereby the writ petition has been dismissed, is an order, which can be treated to be an order suffering from any infirmity, legal or factual.

40. In the result and for the reasons discussed above, L.P.A. No. 394 of 2014 stands dismissed; whereas L.P.A. No. 411 of 2014 stands allowed.”

17. This Court would too reiterate what has fallen from the Division Bench. The parties accordingly would resort their disputes with respect to claim on College/Society etc. before a

competent Civil Court.

18. This application is allowed to the extent mentioned

above.

(Samarendra Pratap Singh, J.)

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