

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1241 of 2014

IN

Civil Writ Jurisdiction Case No. 4560 of 2007

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Secretary-cum-Commissioner, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.
 3. The Director, Human Resources Development Department, Government of Bihar, New Secretariat, Patna.

.... Respondents- Appellant/s

Versus

1. Md. Adil Rashid, Son of Abdul Rashid, Resident of village- Jahangirpur Baisi, P.S.- Gopalpur Via- Naugachia, District- Bhagalpur.
2. Md. Bashar Faruque, Son of Md. Abdul Ghafoor, Resident of village- Uzani, P.O.- Mania More, P.S.- Naugachia, District- Bhagalpur.
3. Md. Ekramul Haque, Son of Sk. Karamat Ali, Resident of village- Uzani, P.O.- Mania More, P.S.- Naugachia, District- Bhagalpur.
4. Zinat Aara @ Zeenat Ara, Daughter of Dr. A. Wahab, Resident of Model Colony, P.O., P.S. Aanandpur, District- Bhagalpur.
5. Zianab Ara, Daughter of Dr. A. Wahab, Resident of Model Colony, P.O., P.S. Aanandpur, District- Bhagalpur.

... Petitioners-Respondents

6. Magadh University through its Registrar, Bodh Gaya.
7. The Vice Chancellor, Magadh University, Bodh Gaya.
8. Soghra College of Education, Biharsharif, Nalanda through its Secretary

.... Performa Respondent/s

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Appearance :

For the Appellant/s	:	Mr. D. K. Sinha, A.A.G.-2
		Mr. Alok Kumar Rahi, A.C. to A.A.G.-2
		Mr. Abhinay Raj, A.C. to A.A.G.-2
For the Respondents No.1 to 5:		Mr. V. Kanth, Senior Advocate
		Mr. Mukul Sinha, Advocate

For the respondent-No.6 &7 : Mr. Girijish Kumar, Advocate

For the Respondent No.8 : Mr. Arun Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

C.A.V. JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-05-2015

The State of Bihar preferred this appeal, feeling aggrieved by the order dated 24.10.2011 passed by the learned Single Judge in CWJC No.4560 of 2007. The writ petition was filed by the respondents 1 to 5 herein, against the appellants and the respondents 6 to 8 herein.

The case of the respondents 1 to 5 is that they joined Soghara College of Education, Biharsharif, Nalanda-8th respondent herein (for short, 'the College') in the B.Ed. course for the 1985-86 sessions, and they had also been issued the provisional mark sheets and a certificate in the year 1990 by the Magadh University, Bodh Gaya- the 6th respondent. Their grievance was that the appellants did not include the name of College in the context of eligibility of the candidates holding B.Ed. degree for the post of teacher. They pleaded that the College was affiliated to the University, and once the provisional certificate is issued, there is no reason why the College be not included in the list of institutions.



The appellants as well as the University opposed the writ petition. They pleaded that neither at the time of alleged admission of the respondents 1 to 5 in B.Ed. course; nor at later point of time, the College was affiliated with the University and it ceased to exist for the past few decades ago. Attention of the Court was also drawn to the order dated 12.09.2006 passed by this Court in CWJC No.7515 of 2006, which was filed by an institution, similarly situated as 8th respondent herein.

The learned Single Judge allowed the writ petition and directed the respondents to include the College in the list of institution. Hence, this appeal.

Heard Sri D. K. Sinha, learned Additional Advocate General-II for the appellants, Sri Vinod Kanth, learned Senior Counsel for the respondents 1 to 5, and Sri Girijesh Kumar, learned counsel for the University.

For the post of secondary teachers in the State of Bihar, the qualification prescribed is pass in B.Ed degree course. Since indiscriminate claims were being made to the effect that the candidates obtained the B.Ed. degree from various institutions, the Government had undertaken verification of the matter, and prepared the list of the Colleges of Education, which were validly affiliated to the Universities. It is only the candidates who obtained B.Ed degree

from such institutions, that are enabled to apply.

The respondents 1 to 5, or for that matter, the management College did not dispute that the institution was not affiliated to the University in 1985-86. The copies of certain correspondences are placed before this Court to impress upon us that, pending final affiliation, the then Vice Chancellor had taken a decision to permit the students to take the examination. Even if that is true, the provisional permission to appear in the examination would attain the legality or validity, if only the institution is affiliated, may be at a later point of time, but with reference to the concerned academic year.

For example, the students were admitted for the Sessions 1985 -86, the provisional permission was granted to appear in the examination held in the year 1987-88. The same can be valid, if only the institution is granted affiliation, may be in the year 1990, but with reference to the admission made in the year 1985-86. Such a development has not been taken place in the instant case. It is brought to the notice of the Court that the College itself was closed much before any affiliation was granted.

Under these circumstances, we find it difficult to sustain the direction issued by the learned Single Judge.

Hence, the appeal is allowed, and the order dated

24.10.2011 passed in CWJC No.4560 of 2007 is set aside.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

Sudhir Singh, J.

(Sudhir Singh, J)

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