

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16186 of 2015

Bandana Kumari, W/o Gyan Kaushik Chaturvedi, resident of House No.109, Gandhi Nagar, P.S.- Shri Krishna Puri, Boring Canal Raod, Patna, District- Patna, PIN- 800001.

.... Petitioner/s

Versus

1. The Patna University, Ashok Raj Path, Patna- 800004.
2. The Vice-Chancellor, Patna University, Ashok Raj Path, Patna- 800004, Bihar.
3. The Registrar, Patna University, Ashok Raj Path, Patna- 800004.
4. The Controller of Examinations, Patna University, Ashok Raj Path, Patna- 800004.
5. The Head of the Department, Department of History, Patna University, Ashok Raj Path, Patna- 800004.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Vinay Krishna Tripathy
For the Respondent/s : Mr. Digvijay Singh

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 09-11-2015

09.11.2015

Heard learned counsel for the parties.

Writ application of the petitioner is directed against the respondents-Patna University. She wants declaration of her results for Master in Arts in Women Studies for the session 2012-2014 as petitioner has successfully completed the course and cleared all the examinations related to such course of studies.

The respondent-Patna University was directed to file a counter affidavit and explain the reason for non-publication of the result of the petitioner for the course in question. Their stand in the counter affidavit is that the



Invigilator of the examination, being held for the 3rd semester, found the petitioner indulging in unfair means. The matter was reported to the university authorities. The university authorities took a decision to cancel the examination for the year in question. The committee, known as Unfair Means Committee went into the matter and finally an order, dated 03.07.2015 has been issued by the university's Controller of Examination, making the petitioner eligible for sitting in the examination, to be held in December, 2014.

At the outset the Court is constrained to record that a misleading and unfair position has been indicated in paragraph 5 of the counter affidavit. Allegations are being made against the petitioner, which is over and above what was noted and recorded by the Centre Superintendent, which would be evident from Annexure-A of the counter affidavit. The noting on the answer-sheet does not tally with the stand or position indicated in paragraph 5 of the counter affidavit. Obviously, it is a case of over-kill on behalf of the university.

What is of significance is that why the committee deliberated with the matter and took its own sweet time to take a decision. More than a year had



gone past, but the time did not stand still. It seems that the Vice-Chancellor of the university permitted the petitioner vide order dated 12.07.2014 to provisionally appear in the 4th semester examination for the session 2012-2014. The petitioner sat for the examination and has also qualified. Not only this, the petitioner has even sat for the paper for the 3rd semester, for which she was expelled and she has cleared that paper as well.

If the petitioner has now cleared both the semester's paper, the natural corollary is that the result ought to be published.

The stand of the counsel for the university is that such permission was provisional and of no avail for the reason that the permission contained in Annexure-4 has not been recalled or cancelled. The decision of the Unfair Means Committee is only to debar the petitioner from the paper for which there was allegation of insinuation of some wrong doing. Therefore, if the petitioner has successfully completed her papers in the examination for which the petitioner has participated after the permission having been granted by the Vice-Chancellor, the university's authorities cannot be permitted to go back and insist that the petitioner must sit for the examination de novo all over again because

Annexure-D has been passed only on 03.07.2015.

In this regard, Court would rely on a famous decision, rendered in the case of ***Shri Krishan Vrs. Kurukshetra University, reported in (1976) 1 SCC 311***, which lays down the law that once a candidate has been permitted to participate in the examination and that exercise has been completed, the same cannot be undone on the grounds of one omission or the other in following procedure etc.

In fact, it will be a baseless and fruitless exercise to compel a candidate to appear afresh for the examination, exercise of which has already over.

In view of the above, Controller of Examination, Patna University is directed to publish the result of the petitioner forthwith, preferably within a period of six weeks from the date of production / communication of a copy of this Order.

Writ application is allowed in terms of above.

(Ajay Kumar Tripathi, J.)

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