

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 1578 of 2013

IN

Civil Writ Jurisdiction Case No 12535 of 2008

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1. Baba Saheb Bhim Rao Ambedkar Bihar University through Its Registrar, Muzaffarpur
 2. Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur
 3. Controller Of Examination, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur

.... Appellant/s

Versus

1. Surendra Bhartiya S/O Late Jamun Rai Resident Of Village- Goragama, P.O.- Mahuwa, Distt.- Vaishali
2. Raj Kishore Singh S/O Binda Singh Resident Of Village- Chandra, P.O.- Dalpat, Vishunpur, Via + P.S.- Bachpakari, Distt.- West Champaran
3. Vishwa Nath Rai S/O Laxman Rai Resident Of Village- Morsahaud, P.S. + P.O.- Kanti, Distt.- Muzaffarpur
4. Rita Kumari Sinha D/O Harendra Ojha Resident Of Village + P.O.- Khabra, P.S.- Muzaffarpur, Distt.- Muzaffarpur
5. Abhiram Singh S/O Karikh Singh Resident Of Village + P.O.- Jihuli, Distt.- West Champaran
6. Shiv Chandra Chaurasia S/O Late Dev Narayan Chaurasia Resident Of Village- Mansirglipur, P.O.- Fallahpur Fulwaria, P.S.- Vaishali, Distt.- Vaishali (Died)
7. Ashok Kumar Chaudhry S/O Late Upendra Chaudhry Resident Of Village + P.O.- Bijrauli, Distt.- Vaishali
8. Sita Ram Chaudhry S/O Sri Nirsu Chaudhry Resident Of Village- Musapur, P.O.- Ajijpur, Distt.- Vaishali (Died)
9. Ram Lakhan Singh S/O Late Harihar Singh Resident Of Village- Shankarpur, P.O.- Takari Guria, Distt.- Gaya
10. Surendra Pd. Singh S/O Late Ram Kishun Singh Resident Of Village + P.O.- Mokhtiyarpur, Via + P.S.- Teghara, Distt.- Begusarai
11. Ajay Kr. Thakur S/O Ram Chandra Thakur Resident Of Village + P.O.- Gokul Mathural, Distt.- Bhagalpur
12. Amod Kumar S/O Sri Ram Swarup Kunwar Resident Of Village + P.O.- Saidpur, Distt.- Bhagalpur
13. Pramod Kr. Lal S/O Krishna Mohan Lal Resident Of Village- Mansurgang, P.O.- Kharwan Chak, Distt.- Bhagalpur
14. Nagendra Rai S/O Surendra Rai C/O Prahlad Sharma (J.E. State Tuble Well), P.O.- Ramna, Sadpura, P.S.- Muzaffarpur, Distt.- Muzaffarpur
15. Dinesh Ram S/O Bonshi Ram Resident Of Village + P.O.- Amor, P.S.- Balbatta, Distt.- Bhagalpur
16. Kailash Bihari Trivedi S/O Basant Prasad Trivedi Resident Of Village + P.O.- Olpura, Distt.- Bhagalpur
17. Hare Ram Mahto S/O Ishwar Dayal Mahto Resident Of Village + P.O.- Gokul Mathura, Distt.- Bhagalpur
18. Kiran Kumar Bagehi S/O Late Satendra Math Bagehi P.O.- Kasba Dulechak, Distt.- Bhagalpur
19. Bijay Kumar Singh S/O Sheo Narayan Singh Resident Of Village + P.O.- Bishunpur Harbhir, P.S.- Korna, Distt.- Katihar
20. The State Of Bihar through Director, Primary Education, Bihar, Patna

21. Principal, Government Teachers Training College, Turki, P.S. Turki, District-Muzaffarpur

.... Respondent/s

Appearance :

For the Appellant/s : Mr P N Shahi, Sr Advocate with
Mr Vikas Ratan Bharti, Advocate

For the Respondent/s : Mr Siddhartha Prasad, Advocate

For the State : Mr Krishna Kumar, AC to GP 26

CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 23-09-2015

This Letters Patent Appeal arises from the judgment and order of the learned Single Judge passed in *CWJC No 12535 of 2008* (Surendra Bhartiya & Others –Versus- State of Bihar & Others) and its analogous cases.

2 As the contesting respondent has appeared and filed a comprehensive counter affidavit, with consent of parties, this appeal was heard at length for its final disposal at this stage itself.

3 On behalf of the University, Shri Pushkar Narain Shahi submitted that six writ petitions were filed. They were by students of Government Teachers Training College, Turki, District – Muzaffarpur (For brevity, *the College*). They had filed the writ petitions for a direction to the University to take their B Ed examinations. The 19



petitioners of *CWJC No 12535 of 2008*, which was one of the writ petitions, involved students of 1983-1984 batch whose grievance was also that their results were not being published. Shri Shahi submits that all the writ petitions were allowed and a Letters Patent Appeal being LPA No 1204 of 2009 was filed by the University being aggrieved by the said judgment. This appeal arises out of *CWJC No 12496 of 2008*. This appeal was allowed on 25.02.2011 and the order of learned Single Judge was set aside. Earlier, University, thinking that the common order had been set aside, did not file any other appeal. As a contempt application had been filed by these 19 petitioners, it realized that the judgment in this writ petition that is *CWJC No 12535 of 2008*, having not been assailed in appeal, the University would suffer embarrassment in the contempt proceedings. Accordingly, this appeal was filed. It was urged by Shri Shahi, on behalf of the University, that the common order passed by the learned Single Judge having been set aside by this Court in LPA No 1204 of 2009, this appeal should also be allowed on parity of reasoning.

4 Shri Sidhartha Prasad, learned counsel appearing for the 19 private respondents, who were the writ petitioners originally, contend otherwise. He submits that parity of reasoning would apply only if the facts are in parity. As we would notice, he is correct. The facts are totally different in the two writ petitions and, therefore, in our

view, the judgment passed in *LPA No 1204 of 2009* on 25.02.2011 would not apply. The facts and the reasons are as follows.

5 As noted above, the dispute relates to B Ed course being conducted by the College. The period in question was 1983-1984 to 1986-1987. Originally, when University was not conducting examinations, four writ petitions were filed being CWJC No 373 of 1987 and analogous cases. This included the 19 contesting respondents of this appeal, who were parties to *CWJC No 373 of 1987* and analogous cases. These 19 respondents were of the batch 1983-1984. Those writ petitions were taken up and were allowed by the learned Single Judge (*Hon'ble S B Sinha, J as His Lordship then was*) holding that the sanctioned strength of the batches in respect of B Ed course in the said College was 150. The Court, after examining the facts, directed that examination be conducted in respect of all the petitioners. From this, it is clear that all the present 19 respondents took examination under orders of this Court passed in those writ petitions in the year, 1987. When results were not being published, contempt applications were filed. In the contempt application, this Court held that there was no direction to publish result. The results could not be published unless the students were bona fide and genuine students and admitted within the sanctioned strength. The learned Single Judge advised the Government to get the matter enquired into



and then take appropriate actions. It is pursuant to this that the State Government set up a One Man Enquiry Committee which is popularly known as “Poddar Committee”. The Poddar Committee considered all the documents and made extensive enquiries and it submitted its report in the year, 1992. The report of Poddar Committee contained batchwise list of genuine students who had genuinely and bona fide been admitted and had taken the examinations for the B Ed Course. It has not been disputed by the University that the present 19 contesting respondents figure in the Poddar Committee’s report as genuine and bona fide students of the batch 1983-1984.

6 Let it be recorded that so far as the petitioners of *CWJC No 12496 of 2008* are concerned, against which the LPA was allowed, that related to students, whose names did not figure in the Poddar Committee’s report. It is rightly submitted by Shri Siddhartha Prasad that the said writ petition dealt with those students who were found to be non-bona fide and non-genuine students.

7 We are, thus, in agreement with the submission of Mr Siddhartha Prasad that on the facts, the two cases are entirely different and the judgment of this Court in *LPA No 1204 of 2009* dated 25.02.2011 would have no application to the facts of the present case.

8 Now we may notice other facts. The first thing as we have already noted that the Poddar Committee’s report of the year, 1992



included the names of the 19 contesting respondents as genuine and bona fide students of the College in respect of B Ed Course for the session, 1983-1984. Unfortunately, the matter did not end there. As the number of students involved was quite a large number, there was spade of writ petitions and each time, the question came up, the University look to the State Government for shelter. In other words, the University having permitted and created a mess, it always looked for a shelter elsewhere. Ultimately, it was able to persuade Government to order a vigilance enquiry in the year, 1999. That vigilance enquiry also could make no headway. The report is on record. The report is submitted in the year, 2006 clearly stating that the University could not produce any record in relation to the matter to be enquired into but from whatever information and documents, the vigilance could gather for the session 1983-1984, at least examinations were held but results were not declared. If anything, this helps the contesting private respondents. They are of the said batch and they had come to this Court for declaration of their results.

9 We had adjourned this matter for University to bring on record any fact to contradict the aforesaid facts which were brought on record by the contesting respondents by way of counter affidavit. University is unable to bring any document to contradict these facts, as noted above. If these facts, as noted above, go uncontroverted, the

only conclusion would be that these 19 contesting respondents, who were the writ petitioners, were bona fide and genuine students of 1983-1984 batch of B Ed Course in the College who had taken their examination and yet the results are not being published.

10 Therefore, it cannot be said that there is anything wrong with the order of the learned Single Judge under appeal that needs to be interfered with. We, therefore, find no merit in this appeal which is dismissed.

11 Before we close down, we would like to end another controversy. This arose from the apparent stand of the University that it has no records. Consequently, they would now plead that they are unable to publish the results. We cannot accept this. The reason is simple. In the proceedings before the learned Single Judge and in the proceedings in contempt, various affidavits have been filed. The learned Advocate General, who had been appearing in the contempt application on behalf of the University being MJC No 392 of 1989, which was contempt proceedings arising from order of Justice S B Sinha (*as His Lordship then was*), the Advocate General did mention that hundred students of the batch 1983-1984 were admitted in the College which, as noted above, were also permitted to appear in the examination. In the contempt proceedings, now initiated, State has filed the tabulation register showing the results of at least these

contesting 19 students which would include the 19 contesting respondents as well.

12 As has been done in other cases, University would now be obliged to declare the results on the same basis as it has done in the other cases that is on average marking basis. Reference, in this connection, may be made to *CWJC No 5035 of 2006* disposed of on 27.09.2006. This should be done forthwith without any further delay, the responsibility of which would be on the Vice Chancellor.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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