

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.904 of 2014

In
Civil Writ Jurisdiction Case No. 21660 of 2013

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Mihir Kumar Jha, Son of Sri Surya Kant Jha, Resident of Village-Chainpur, P.S.- Bangaon, District Saharsa.

.... Petitioner/Appellant.

Versus

1. The Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura, through its Registrar.
2. The Vice Chancellor, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura.
3. The Registrar, Bhupendra Narayan Mandal University, Madhepura.
4. The Examination Controller, Bhupendra Narayan Mandal University, Madhepura
5. The Principal, Sarv narayan Singh Ram Kumar Singh College, Saharsa.

.... Respondents/Respondents.

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Appearance :

For the Appellant/s : Mr. Tara Nath Jha, Advocate

For the Respondent/s : Mr. Raju Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

AND

HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

C.A.V. ORDER

(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)

5 07-01-2015 This appeal is preferred against the order, dated 24.04.2014, passed in C.W.J.C. No. 21660 of 2013, whereby a learned single Judge of this Court has refused to issue directions to the respondents to furnish to the writ petitioner *mark-sheet* and *provisional certificate* of the examination of the 3rd part of the Bachelor of Science course, held in the year 2012, from Sarv narayan Singh Ram Kumar Singh College, Saharsa, a constituent College under B.N. Mandal University, Laloo Nagar, Madhepura, though the writ petitioner claims to have had successfully

passed the said examination.

2. Before we consider the submissions made on behalf of the parties concerned, it would be necessary to notice, in brief, the facts of the case.

The writ petitioner-appellant was enrolled in three year B.Sc. course in Sarvnarayan Singh Ram Kumar Singh College, Saharsa, for the academic session 2004-05 in the year 2005, vide registration No. 12761/2005. He opted for Chemistry Honours with subsidiary subjects of Physics, Mathematics and Hindi in Part I and II examinations. The appellant appeared in 1st year examination, but failed in two compulsory papers i.e. Physics and Mathematics. He took examination of Physics and Mathematics of 1st year in the year 2006 and was able to clear those papers. He took the 2nd year examination in the year 2007, but failed in Physics. He, again, appeared in Physics paper of 2nd year in 2008 and cleared the same. The appellant, thereafter, for reasons best known to him, appeared in the 3rd year examination only in 2011; but failed. The appellant was allowed to sit in the examination in the year 2012, which he claims to have passed; but the respondent-University refused to declare the result in view of its Regulations framed in this regard.

3. The respondent University has justified its

stand on the ground that the Regulations do not permit publication of results and issuance of mark-sheet if a candidate has failed to pass B.Sc. (Hons.) final examination availing a maximum of three consecutive chances since passing of the last examination.

4. According to the respondent University, the appellant cleared his Part-II examination in the second attempt in the year 2008. In his 1st attempt made in the year 2007, the appellant could not clear Physics paper. In terms of the Regulations, he was required to pass Part-III examination in three consecutive attempts. The last of the three consecutive examinations was in the year 2011; but the petitioner failed to clear the same.

5. Though the appellant was allowed to appear in 2012 examination, it transpired, during the course of scrutiny, that the appellant had not cleared his final year examination in three consecutive attempts. The appellant's result was, therefore, withheld in terms of Regulations 7.1.

6. On the other hand, the appellant, relying upon the decisions, in **Vikash Anand v. The Chancellor of the University**, reported in **2001 (4) PLJR 72**, and **Shri Krishan v. Kurukshetra University**, reported in **(1976) 1 SCC 311**, submits that since he has once been allowed to appear in the examination, which he reportedly

passed, the respondents ought to have issued the *mark-sheet* and published his *result*.

7. We are in agreement with the submissions of the learned counsel for the respondent University and also agree with the view taken by the learned single Judge that Regulation 7.1 mandates that a candidate, such as the appellant, shall pass Part III of the course in three consecutive examinations and no further chance could be availed.

8. Situated thus, it becomes clear that no such mandamus, as had been sought for by the writ petitioner-appellant, could have been issued in the writ petition.

9. We do not find any merit in this appeal and this appeal accordingly stands dismissed.

(Samarendra Pratap Singh, J.)

I. A. Ansari, J.: I agree.

(I.A. Ansari, J.)

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