

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13438 of 2013**

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1. Radhe Krishna Son Of Sri Rajendra Prasad Choudhary Resident Of  
Village And Post- Pothia, P.S.- Sanhaula, District- Bhagalpur

.... .... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary, Human Resources  
Development Department, Government Of Bihar, Patna  
2. The Director, Secondary Education, Government Of Bihar, Patna  
3. The Deputy Director, Secondary Education, Government Of Bihar, Patna  
4. Deputy Development Commissioner Cum Chief Executive Officer Cum  
Member Secretary, Zila Parishad Teachers Appointment Selection Unit,  
Madhubani, District- Madhubani

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr Purushottam Kumar Jha  
Mr. Ajay Kumar Jha  
For the State : Mr. M.K.Sinha, SC 1  
Mr S.K.Karn, AC to SC 1  
For IGNOU : Mr Ajay Kumar

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**  
**ORAL ORDER**

9      12-01-2015      Petitioner wants a direction upon the respondent

State authorities especially of the Zila Parishad, to grant him the benefit of 5 marks because he has a major credit in the B.Com subject which he had obtained from Indira Gandhi National Open University. There are certain communications which support his claim issued on the regional level of the said University. However, the respondents are refusing to grant any benefit of extra marks because they are refusing to treat the B.Com degree with 48 credits as a major degree.

Reliance has been placed by the petitioner that on

the basis of degree so awarded he has 48 credits in the B.Com examination and, therefore, this is good enough to give him a Major in the B.Com subject. Since the respondent authorities have failed to indicate the above position in the degree so awarded to the petitioner, he is being denied the benefit of additional 5 marks.

In these circumstances, the Indira Gandhi National Open University was impleaded as respondents no.5 and 6, who have filed their counter affidavit.

The stand of the counsel for the University is that they do not award Major degree in B.Com. To obtain a B.Com degree, a minimum of 48 credits are required. Since petitioner has 48 credits, he has been awarded B.Com degree. If he wants a Major degree, he had to elect or select any other subject in which Major degrees are awarded. In support that B.Com does not have any provision for award of Major degree, the Prospectus or Handbook of the student relating to the year 2002, which has relevance and applicability to the claim of the petitioner, has been produced by the counsel for the University.

The Court has gone through the said provision read with the provisions, which are available at page 24-25 of the said Handbook, which is running page 105-106. There seems to be

some force in the submission of the counsel for the University that the University does not award any Major degree in B.Com. Though 48 credits have to be earned for award of Major in some of other subjects, which has been talked about in the Handbook, but there is no provision of similar kind with regard to B.Com degree. Petitioner cannot draw analogy from the said provision and insist upon for a direction upon the respondents to award him Major degree in B.Com.

There is no merit in the claim of the petitioner. The claim of the petitioner will flow from the prospectus and the provisions so made by the University in varying subjects and analogy cannot be the basis for bring into force a provision, which does not exists.

It is made clear that Annexure- 6 seems to have been issued on the basis of some kind of misunderstanding at the local level by the Regional Director, who is not the competent authority. That communication cannot form the basis over and above the prospectus and the stand, which has been taken by the counsel for the University in the counter affidavit.

Writ is dismissed.

**(Ajay Kumar Tripathi, J)**

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