

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13858 of 2014

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Sarangdhar Kumar, Son of Sri Girdhari Sharma, Resident of Mohalla New Anandpuri, P.S. Khagaul, District Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, New Secretariat, Patna.
2. The Lalit Narayan Mithila University, Darbhanga, through its Registrar.
3. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
4. The Registrar, Lalit Narayan Mithila University, Darbhanga.
5. The Controller of Examinations, Lalit Narayan Mithila University, Darbhanga.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Amarendra Kumar, Advocate
For the State	:	Mr. Roy Shivaji Nath, AAG3
For L.N.M.U.	:	Ms. Binita Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 2-11-2015

In response to an advertisement, petitioner applied for Pre Registration Test for Ph.D. on the subject Anatomy in medical faculty. Petitioner appeared in the examination on 23.05.2011 and was declared successful. To the response from the University to submit a synopsis within one year of passing of the examination, the communication is Annexure-2, petitioner submitted his synopsis. It is said that the University also appointed one Dr. S.K. Sinha, Associate Professor of the Department of Anatomy of Katihar Medical College as an expert for Departmental Research Committee. Meeting of the Departmental Research Committee was held on 24.03.2012 in the Department of Anatomy, Darbhanga Medical College and Hospital.

The Committee after deliberation decided to grant permission to the petitioner for registration for Ph.D. degree and made recommendation to L.N. Mithila University.

2. While this exercise was going on, the State of Bihar created a new University known as Aryabhatta Knowledge University. This university now became the nodal university for grant of degrees for technical courses, like, medical, engineering including Ph.D. etc. Registration paper of the petitioner was sent to the new university. While the matter was pending before the university, the Education Department issued a communication dated 02.05.2013 that only those persons who had passed the Pre Registration Examination conducted by Aryabhatta Knowledge University since 2013 could register with the university not for people who have passed the Pre Registration from other universities prior to 2013. The petitioner is running from one university to other for registration as a Ph.D. candidate but since it has proved to be futile, he decided to file a writ application for a mandamus for a direction upon Lalit Narayan Mithila University, Darbhanga to register the petitioner as a Ph.D. candidate.

3. A counter affidavit on behalf of the university duly sworn by the law officer was filed. They took a plea that after the communication received from Aryabhatta Knowledge University with

regard to status of the petitioner, the Departmental Research Committee convened a meeting in the chamber of the Professor and Head of Department of Anatomy in Darbhanga Medical College on 21.05.2014 and since the petitioner with three other candidates did not appear, the matter was allowed to rest.

4. In the rejoinder filed on behalf of the petitioner, he takes a stand that there was no occasion for holding a second meeting or to call or consider the request of the petitioner for registration as that was done in the year 2012 itself. He also did not have any input or information about such a meeting.

5. Thereafter a supplementary counter affidavit on behalf of the university came to be filed. In this affidavit, the university takes a plea that the claim of the petitioner was examined by the Vice Chancellor in which the Dean, Faculty of Medicine and Head of Department of Anatomy were called for discussion. A report thereafter of the meeting was submitted which is Annexure-A to the supplementary counter affidavit. Reading of the report would indicate that the petitioner is not a student of Darbhanga Medical College. His so called guide is no longer posted at Darbhanga Medical College. Petitioner is a student of Manipal University and his guide was transferred and posted at Pawapuri Medical College in June, 2012 itself. As per the provision, either of the two must belong to the

institution/university. Further the petitioner never submitted any request for change of guide so the matter stood still.

6. The discrimination which the petitioner has alleged against one Dr. Sanjay Kumar Sinha has been denied. The said Dr. Sanjay Kumar Sinha passed his M.S. (Anatomy) Examination as a student of Darbhanga Medical College under the university in the year 1999 itself, his guide and supervisor is a teacher at Darbhanga Medical College.

7. The earlier recommendation made by the Departmental Research Committee dated 24.03.2012 in the above stated facts was said to be an illegal decision because such a decision was taken by over looking the above factual position. Another fact which has been alleged in the second supplementary counter affidavit is that the earlier Departmental Research Committee which is supposed to have held a meeting does not indicate any presence of the Dean, Faculty of Medicine. Therefore, it was an incomplete kind of coram or a decision taken without the participation of the Dean which is a must. It was in these controversial circumstances coupled with the fact that his guide also stood transferred in the year 2012 itself, the petitioner could not be registered for research as a Ph.D. candidate.

8. Much time has elapsed since the passing of the Pre Registration Test for Ph.D. in the year 2011. The circumstances



under which the final registration of the petitioner could not be done, has been indicated by the University. The above fact is not in dispute. In addition to that a new university has taken birth which has been vested with the authority of conducting examination etc. for technical courses in the State of Bihar. All other universities have been divested of this power after coming of the new university. In the change circumstances, therefore, coupled with a time gap of more than four years since passing of the Pre Registration Test for enrollment, the Court is not inclined to give a direction in favour of the petitioner to continue any research under the university which no longer is authorized to facilitate such research after 2013.

9. The Court further does not want to go into the issue as to who is to blame or not to blame for non-completion of registration as a research student for Ph.D. The fact is that the petitioner has done no work and could not have done any work in absence of his guide since 2012 itself. A post doctoral research is a serious business especially, if it relates to the branch of medicine. The research work cannot be made as a formality nor can award of Ph.D. be permitted to be obtained for the sake of possession of a Ph.D. degree. The Court is not unmindful of the manner in which Ph.D. degrees have been awarded in an indiscriminate manner by various universities without following the guidelines laid down in this regard.

10. In the above circumstances, therefore, coupled with the fact that now such award of degrees and research is centralized under Aryabhatta Knowledge University, the petitioner would be well advised to go through the process of re-registration under the new university which is now in existence since 2013. The Court, therefore, refuses to pass any order or direction in favour of the petitioner to register him as a Ph.D. candidate for research under Lalit Narayan Mithila University, Darbhanga since the earlier exercise was futile, incomplete and illegal.

11. The writ application, therefore, is dismissed for the reasons indicated above.

(Ajay Kumar Tripathi, J.)

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