

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3567 of 2015

1. Shri Ravneshwar Sanskrit Mahavidyalay Giddhour (Jamui) through its In-Charge Principal Dr. Deorshi Nath Pandey Son of Late Sharda Kant Pandey Resident of Village + Post - Sarwan, P.S. - Sarwan, District - Deoghar, Jharkhand.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Joint Secretary, Department of Education, Government of Bihar, Patna.
4. The Director Higher Education, Government of Bihar, Patna.
5. The Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
6. The Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
7. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate
Smt. Anju Jha
For the Respondent/s : Mr. Subhash Pd. Singh, G.A. - 7
Mr. Dilip Kumar
For the Board: Mr. Awadhesh Prasad
For the University: Mr. A. P. Sinha

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 11-05-2015

11.05.2015

Heard learned counsel for the parties.

Writ application has been filed by the petitioners, because the Joint Secretary, Department of Education, vide his order, dated 19.12.2013 has rejected the claim of the petitioner for consent for affiliation. Learned senior counsel, therefore, wants quashing of Annexure- 1 and has attacked the order on many grounds, including the fact that it is a cryptic order, does

not disclose the reason for rejection. In addition, it is also pleaded that the rejection is for extraneous reasons not based on actual state of affairs. The order of rejection is for the sake of rejection and there is lack of objectivity, which materials and facts would demonstrate.

Today a rejoinder on behalf of the petitioner has also been filed, annexing the parameters and the guidelines, which are required for such recognition. This notification, dated 18th of October, 1976 is Annexure-1. He has also annexed earlier order of adjudication made in a batch of writ applications where the grant of rejection of such affiliation or consent for affiliation was held to be erroneous, which would be evident from reading of Annexure-3 of the rejoinder, to the writ application. The Learned Single Judge then after taking into consideration the various stand of the respondents and the law came to an opinion that a reconsideration was required. That order has attained finality because the LPA came to be rejected.

Counter affidavit on behalf of the respondents have been filed justifying the decision and taking a blanket stand that since institution did not fulfill the basics of requirements, therefore, rejection was a naturally corollary. They have also annexed Annexure-B,



which is the inspection report, dated 03.10.2007.

The Court has gone through the inspection report. The requirement and the so called inadequacy are not apparent from reading of the said report. In fact, a dispassionate reading of the report would indicate that the institution seems to be much better placed and equipped than many of the other regular colleges which are being run in the State of Bihar. Enquiry report recommends grant of affiliation.

Surprisingly, despite the above recommendation and no apparent inadequacy emerging or pointed out, the respondent-Joint Secretary decided to reject the claim of the petitioner vide Annexure-1.

Reading of the counter affidavit does not indicate as to what additional material went into the decision making process which was in any manner different from report annexed with the counter affidavit. The Court would also like to observe whether it was open to the respondent-State authority to take extraneous materials, if any, beyond the recommendation of the inspection report.

In totality, therefore, there is something more than what meets the eye in rejection of the claim of the petitioner in terms of Annexure-1, dated 19.12.2013. The

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Court has no hesitation in recording that the decision has been taken in a mechanical fashion and not based on the facts available on record or the inspection report.

Writ application, therefore, succeeds. Annexure-1 is quashed. Matter is remanded back to the authorities for fresh consideration. Since some time has already elapsed, since the last report, the Court directs the respondent-State authorities to hold a fresh inspection and based on the inputs take a decision. All this must be done within a period of three months from the date of production / communication of a copy of this Order, as enough time has already been lost in repeated litigations.

Writ application is allowed, accordingly

(Ajay Kumar Tripathi, J.)

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