

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9760 of 2016

=====

Arbind Kumar Son of Kalyan Ram resident of Village & P.O.- Mohamada, Via-Basantpur, District- Siwan

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Science & Technology Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Bihar, Patna
3. The Vice-Chancellor, Aryabhata Knowledge University, Mithapur, Patna
4. The Registrar, Aryabhata Knowledge University, Mithapur, Patna
5. The Principal, Muzaffarpur Institute of Technology, Muzaffarpur.

.... Respondents

=====

Appearance :

For the Petitioner	:	Mr. Ramadhar Shekhar, Advocate
For the State	:	Mr. Umesh Narayan Dubey, AC to GP27
For the University	:	Mr. Abhay Shankar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 02-12-2016

Petitioner was admitted to Muzaffarpur Institute of Technology for a four year engineering course of B.Tech. in Civil. The relevant session of admission of the petitioner was 2012-2016. After completion of the first semester, for whatever be the reason the petitioner did not take the examination as he remained absent through and through. Taking a considerate view of the matter, he was allowed to take such papers in the second semester where his performance was below average. He has not been allowed thereafter to continue in the institution for his poor performance, therefore, he has approached the High Court for a direction upon the respondent-University as well as the institute to permit him to be readmitted to the 2014 batch, give



him transfer certificate so that he can continue and complete his studies.

2. The respondent-University has filed a counter affidavit. They take a stand that the prayer made by the petitioner cannot be granted to him for the reason that the University Regulation does not permit so. A twisted kind of interpretation is sought to be given by the petitioner as to his academic achievement by misreading or miscalculating the marks, which he had obtained in the first and the second semester.

3. The Regulation on which emphasis has been placed by counsel for the University is Regulation 3.8 which reads "If a student scores SGPA below 5 in two consecutive 1st semesters exams, he has to leave the Institute."

4. The petitioner must obtain minimum of 5 SGPA in two consecutive first semester exam. In the first examination for the first semester petitioner got 0 (zero) SGPA since he was absent. In the second attempt at the first semester he has only scored 3.26. In other words even the combined reading of the two attempts in the first semester at the examination does not add up to 5 SGPA.

5. Counsel for the petitioner has tried to explain the formula to the Bench by adding the second semester SGPA score with the marks of second attempt of the first semester and he submits that



both added up together grosses 5 SGPA. The law of average also fails by the addition of the two marks, therefore, such an interpretation cannot be given at the cost of the academic excellence which is required to be maintained and for which the Aryabhata Knowledge University has been created.

6. It is the under performance or non-performance of the petitioner which is his enemy and not the institution or the University which is trying to create any kind of impediment of successful completion of his course.

7. The Court will not give any interpretation in favour of the petitioner which has the effect of diluting the standards or rewriting the Regulation which covers such cases.

8. Writ application is devoid of merit and is dismissed.

(Ajay Kumar Tripathi, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2016
Transmission Date	NA

