

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18436 of 2015

Pratichi Bhaskar, Daughter of Aditya Nath Mishra "Arun" Presently resident at 203, Ram Shyama Villa, Gola Road, Bailey Road (Patna-Danapur Road), Patna.

.... Petitioners

Versus

1. The State of Bihar, through its Secretary, through Higher Education Department.
2. Patna University through its Registrar.
3. The Vice Chancellor, Patna University.
4. The Examination Controller, Patna University.
5. The Center Superintendent, B.N. College, Patna (Patna University).
6. The Coordinator Environmental Science-cum-Principal Patna Science College, Patna (Patna University).

.... Respondents

Appearance :

For the Petitioner	:	Mr. Basant Kumar Mishra, Advocate
For the State	:	Mr. Arun Kumar Prasad
		Mr. S. Rahman, A.C. to S.C.7
For the University	:	Mr. Digvijay Singh, Advocate
		Mr. B.J. Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-04-2016

Heard counsel for the petitioner, counsel for the Patna University as well as counsel appearing on behalf of the State.

2. Petitioner was a student of B.Sc. (Vocational) Environmental Science Honours of Patna Science College. She has been compelled to file the present writ application because when the result of the Part-II examination was declared, she was shown to have absented in Chemistry practical, therefore, she was declared fail. Such position emerges from Annexure-5, dated 25.06.2015.

3. The counter affidavit of the University indicates that the petitioner did not appear for the practical examination in the Science College on the date, the examination was held, and that was the reason for the endorsement of absence and failure in Annexure-5.

4. However, it emerges that the petitioner had met with an accident and she could not appear in the practical examination on the date in question. She addressed an application to the Controller of Examination through the Coordinator and Principal of Patna Science College to enable her to take practical examination in B.N. College which was scheduled to be held on 12.05.2015. Since the petitioner did not want to loose out on one year of her life because of the above reason, the Principal of the Science College forwarded the application to the Principal of B.N. College and under the said circumstance petitioner did appear in the practical examination at B.N. College but this was done after due permission of the two authorities.

5. The stand of the counsel for Patna University is that none of these authorities had requisite power to permit such indulgence. It is the Controller of Examination who could permit such digression or indulgence to the petitioner with regard to the said paper and that is the reason for the status of the petitioner having been shown as absent and failed.

6. Petitioner was permitted to appear in the examination by the Principal of the Science College and Principal of the B.N. College

accepted the request and permitted the petitioner to participate in the said examination. Naturally two authorities took a compassionate view of the matter in the peculiarity of the situation and the participation of the petitioner in the said examination is not being disputed. Though in normal course of things, such digression ought not to be encouraged but since the participation of the petitioner was not her unilateral decision, therefore, it will be inequitable on the part of the University to withhold the declaration of her results on the basis of the outcome of the practical examination which was conducted, may be at another centre but under the same said University.

7. In view of the above, the writ application is allowed. The Controller of Examination is directed to take into consideration the award of marks in the practical examination and declare the result of the petitioner afresh.

8. The order, however, may not be treated as a precedent or an endorsement of such deviation for future.

(Ajay Kumar Tripathi, J.)

SanjayKumar/-

AFR/NAFR	NAFR
CAV DATE	
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