

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.636 of 2016

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Sai Dev Charitable Trust, Plot no. 4th Mile Stone, Street /Road - Mairwa Darauli Road, Village- Shyamvedi, Po - Karom, Via- Mairwa, P.s Darauli, district Siwan, through its Managing Trustee, Arun Kumar Mishra Son of Dhruvdeo Mishra Resident of Village- Rahatwan, P.S Belawan, District Siwan (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department , Govt. of Bihar, New Secretariat , Patna.
2. The Director, Research and Training, Education Department Government of Bihar, Patna.
3. The Director , Higher Education , Education Department , Govt. of Bihar, New Secretariat , Patna.
4. The Director Administration -cum-Joint Secretary, Education Department, Government of Bihar, New Secretariat, Patna.
5. Jai Prakash University, Chapra through the Vice Chancellor.
6. The Vice Chancellor, Jai Prakash University Chapra.
7. The Registrar, Jai Prakash University, Chapra.
8. N.C.T.E. Hans Bhawan, Bahadur Shah Zafar Marg, New Delhi through its Chairman.
9. The Chairman, N.C.T.E. Hans Bhawan, Bahadur Shah Zafar Marg, New Delhi
10. The Regional Director, Eastern Regional Committee, N.C.T.E, Bhubhaneshwar, Orissa.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeet Kumar Mr. Raj Kamal
For the Respondent/s	:	Mr. GP20- Nadeem Seraj
For the University:		Mr. Mrigendra Kumar
For the NCTE:		Mr. S. N. Pathak

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-04-2016

Heard learned counsels for the parties.

Petitioner, a charitable trust, has set up a B.Ed. College, known as Shyam Sai Institute of Education in the district of Siwan. The institution has gained recognition from National Council of Teachers Education, vide letter, dated 3rd of March, 2015. A copy of

which is Annexure – 1 to the writ application.

In terms of Annexure – 1, the institution, in question, is also required to obtain affiliation from the university, exercising jurisdiction over the area. This is necessitated from the fact that the conduct of examination and award of degrees is required to be carried out by the university from where affiliation is given to the institution. The National Council of Teachers Education does not conduct any examination and does not award any degree. It only confers recognition and permission for conduct of such courses.

So far as the present petitioner is concerned, they made an application before what is known as Jai Prakash University, located at Saran at Chapra. The university has no objection as such in granting such affiliation. However, they have forwarded the request for grant of such affiliation before the State Government. A stand is taken even by the university that it is necessitated out of the provision, contained in Section 4, sub-clause (19) of the Bihar State Universities Act, 1976. Section 4, sub-clause-19 reads as under:

**“4. Purposes and powers of the university:-
(19) to affiliate or disaffiliate Colleges according to
Statutes subject to prior approval of the State
Government.”**

Since there is delay or indecision on the part of the State Government in taking a decision and such delay is proving detrimental to the interest of the institution, looking at the period of recognition, which has been granted to the institution, coupled with

the fact that the annual intake and admission is being delayed, if not jeopardized, by such indecision.

The institution in question has been set up by a trust. The infrastructure has been put in place by the said trust. There is neither any contribution nor assistance, coming from the State Government in establishment of the institution in question. So far as conduct of studies is concerned, it is the university with which affiliation has been obtained, has an important role to play, since they conduct examination and also award degrees after completion of the courses of B.Ed. The State, as such, plays no role with regard to day to day running of the institution or in any manner in the conduct and award of degrees.

Learned counsel for the petitioner, therefore, submits that Section 4 (19) as it stands in the statute book of the 1976 Legislation was primarily created with the object to regulate colleges, which are brought within the fold of the university and whose recognition by the State is ordained keeping in mind that the State Government ultimately sanctions all the funds for payment to the teachers or non-teaching employees of colleges, which may be made either a constituent or an affiliated unit under a university.

So far as the present institution is concerned, there is no assistance or burden created upon the State of financial kind. Therefore, the provisions, contained in Section 4 (19) has to be read

or interpreted in such a manner that its applicability as such, cannot be extended to an institution of the kind being run by the petitioners and, therefore, the university may not seek prior approval of the State Government for such affiliation.

In the opinion of the Court, the decision of the university should be enough and adequate to meet the requirements of affiliation.

The submission of the counsel for the State in their counter affidavit is far from satisfactory with regard to the power and requirement of prior approval with regard to the institution in question.

The Court is not unmindful of the fact that the Bihar Universities Act was enacted in the year 1976 and the special legislation, known as the National Council of Teachers Education was enacted in the year 1993 and brought into force from 17th of August, 1995, therefore, Section 4 (19) must be read to mean that the institutions, which are covered by a special legislation, like the National Council of Teachers Education Act, may not be required to obtain prior approval of the State Government for affiliation. The university will be competent enough to take a decision at its own level.

In view of the above, the Vice-Chancellor of Jai Prakash University, Chapra is directed to consider and grant affiliation to the Institution at its own level without awaiting any kind of response from

the State Government in relation to their communication within a period of six weeks from today.

Writ application is allowed in terms of above.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	27.04.2016
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