

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8812 of 2016**

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Vidyadaan Institute of Technology And Management represented through its Director, Dr. Arun Kumar Verma S/o Sri Chandra Deep Verma permanent resident of Flat No. 102, Sudama Enclave, East Boring Canal Road, Chakaram Link Path, P.O. - Boring Road, P.S. - Budha Colony, Patna - 800001 (Bihar).

.... .... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat Bhawan, Patna (Bihar).
2. The Principal Secretary, Human Resource Department, Government of Bihar, New Secretariat Bhawan, Patna - 800005 (Bihar).
3. The Hon'ble Chancellor, the State of Bihar, Raj Bhawan, Bailey Road, Patna.
4. The Vice-Chancellor, Aryabhatta Knowledge University, Chanakya National Law University Campus, Mithapur, Patna - 800001.
5. The Registrar, Aryabhatta Knowledge University, Chanakya National Law University Campus, Mithapur, Patna - 800001.
6. Dr. Nibhay Kumar Singh, Ex-Registrar, Aryabhatta Knowledge University, Chanakya National Law University Campus, Mithapur, Patna - 800001 and at present Flat No. 201, Manish Kunj Apartment, Road No. - 08, Anandpuri, West Boring Canal Road, Patna - 800001.
7. Sri Rajeev Ranjan, Examination Controller, Aryabhatta Knowledge University, Chanakya National Law University Campus, Mithapur, Patna - 800001.
8. Dr. Girish Kumar Choudhary, National Institute of Technology, Ashok Raj Path, Mahendru Patna - 800005.
9. Dr. M.P. Singh, National Institute of Technology, Ashok Raj Path, Mahendru Patna - 800005.
10. Prof (Retd.) S.N. Sinha, Nominated Member of Board of Affiliation, Aryabhatta Knowledge University, Chanakya National Law University Campus, Mithapur, Patna - 800001.

.... .... Respondents

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**Appearance :**

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|------------------------|---|---------------------------------------------------------------------|
| For the Petitioner     | : | Mr. S.A. Narain, Senior Advocate<br>Mr. Praveen Kr. Sinha, Advocate |
| For the State          | : | Mr. Dipak Kumar, A.C. to G.A.7                                      |
| For A.K. University    | : | Mr. A.K. Ojha, Advocate                                             |
| For Hon'ble Chancellor | : | Mr. Rajendra Kr. Giri, Advocate                                     |

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 29-08-2016**

I.A. No.6076 of 2016 is allowed.

2. Heard learned senior counsel for the petitioner and  
counsel for the University.



3. The bone of contention in the present writ application are two decisions of the University contained in Annexure-27, dated 27.02.2016 and Annexure-53, dated 13.05.2016 by virtue of which the conditional affiliation granted to the institution for the session 2015-2016 stands withdrawn. Since such a decision has serious fallout on the very existence of the institution in question, naturally the petitioner has approached the Court looking for quashing of the two impugned orders as well as for a direction upon the University authorities to act in accordance with law.

4. The Court has deliberately not gone into the muckraking between the parties or insinuation and allegations because it is not the emotionality which is going to decide the present writ application but the legality of the decision which has been taken, since there is statute in place.

5. Aryabhatta Knowledge University was set up by an Act of the State of Bihar which is Act 24 of 2008. The object and purpose behind setting up of the knowledge university was to bring under one umbrella all technical institutions under one university as well as to give them a kind of atmosphere to achieve excellence in teaching, research and extension work in the areas and matters connected with such teaching. There are various provisions in the Act and there is also statute which has been notified to make the Act

workable.

6. The institution in question was given temporary affiliation. Obviously there were certain shortfalls and inadequacies which prevented the University from granting them permanent affiliation. Matter was reviewed and thereafter the provisional affiliation was withdrawn and that is how the present litigation started.

7. Learned senior counsel for the petitioner has a very pointed submission to make with regard to the two decisions. According to him, both the decisions are vulnerable because the process for processing of the application for affiliation, as provided in Statute 5.4, has not been followed. Statute 5.4 is reproduced for ready reference:

**"5.4. Processing of the application**

*a. Applications received from the college/institutes for any of the undernoted purpose:*

*i. Grant of fresh affiliation for existing college/institute setup by a trust/society on self-finance basis and affiliated to any other university of the state.*

*ii. Newly established college/institute either by the government or a trust/society on self-finance basis.*

*iii. Addition of new programme or increase in take in the affiliated college of the university shall be processed in the following manner*

*a. The Registrar of the University on being satisfied that application is in order and fulfill all the requirements laid down in the statutes shall place the*

application before the "Affiliation and New Teaching Programme Committee" for consideration and necessary action.

b. The inspection team constituted by the "Affiliation and new teaching programme committee" shall visit the college/institute and carry out inspection and shall submit its report in the proforma prescribed by the university duly signed by all the members of the inspection team. In case any member differs and does not agree on certain points he can submit note of dissent in a separate cover within seven days of the inspection.

c. The inspection report so received shall be placed before the "Affiliation and new teaching programme committee" for its perusal and remarks. The "Affiliation and new teaching programme committee" with its remarks shall then transmit the inspection report to the "Board of Affiliation".

d. The "Board of Affiliation" shall scrutinize and examine the inspection report and recommendation of the "Affiliation and new teaching programme committee" and on being satisfied may allow programme wise temporary affiliation for specified duration with or without condition or reject it for the reasons to be recorded in writing.

e. The decision of the "Board of Affiliation" will be placed in the very next meeting of the Court for final decision on the issue of granting affiliation or otherwise.

f. In case of non-government colleges/institutes the university will notify the affiliation only after the receipt of the requisite affiliation fee and deposit of endowment fund as provided in clause 4 (b).

**Note:-** No affiliation fee or endowment is required to be paid by government college/institute for such notification.

g. If the Court for the reasons to be recorded in writing rejects the application, the university shall convey the decision of the Court to the college/institute giving therein the grounds of rejection and in such event the college/institute may

*apply again for affiliation after removing the shortcomings but not before the expiry of six months after rejection.*

*h. No college institute can be affiliated with retrospective effect.*

*i. Temporary affiliation of a college/institute can be extended on year to year basis following positive inspection report and approval of extension by the concerned Central Council/Board wherever required."*

Statute 6.1 talks of permanent affiliation. Since that is not the core issue involved, therefore, the main provision is Statute 5.4.

8. A reading of the above statute does make it very clear that there are definite steps which are required to be taken by the statutory body which has also been talked about in the main Act itself, i.e., Section 17 of the Aryabhatta Knowledge University Act of 2008. The statutory body in this case is not only the Affiliation And New Teaching Programme Committee but also the Board of Affiliation.

9. The learned senior counsel while arguing the case insisted that the original record and file relating to the decision making should be summoned and had a look at by the Court. This is to verify whether the procedure as laid down in the statute and the Act has been followed in the decision making process or not. Since much insistence was placed with regard to the fairness of things, the Court decided to have a look at those original records and decision including the minutes to satisfy itself that the Knowledge university

and the senior functionaries of the University have acted in accordance with law and procedure.

10. The apprehension expressed by the learned senior counsel seems to have come true in the sense that there are omissions in the decision making process of the University and there is also abdication of power by the statutory bodies in taking a decision by surrendering such decision making in favour of the Vice-Chancellor. In this regard, constitution of the inspection committee or team by the Vice-Chancellor is case in point.

11. The learned senior counsel, therefore, is correct in making a submission that if the process has not been followed in letter and spirit, any decision which has culminated out of that process stands vitiated and becomes vulnerable. Law being well settled in this regard that whenever a process or procedure is statutorily laid down then it has to be followed in letter and spirit or not at all.

12. Learned counsel representing the University has tried to explain the entire process of decision making, the bona fide behind the decision as well as the material which culminated into the decision. It is also the stand of the learned counsel for the University that objectivity has been maintained in reaching the conclusion and the facts speak for themselves.

13. The Court has deliberately not gone into that aspect of the matter because if the University authorities have themselves digressed and they have not followed the statute and the steps laid down in Statute 5.4 then it is futile to argue that objectivity was the basis for reaching such a conclusion and for passing of the impugned orders.

14. The Court comes to a conclusion that the conduct of the Knowledge university cannot be condoned. They ought not to be allowed to deviate from the statute and the law which lays down the procedure in decision making and in fact none of the authorities or bodies should surrender their decision making power to any person much less the Vice-Chancellor however, knowledgeable or wise he may be. Collective decision making must retain its character of collectiveness and should not be a case of abject surrender to the boss.

15. Writ application is allowed. The impugned orders contained in Annexure-27, dated 27.02.2016 and Annexure-53, dated 13.05.2016 are hereby quashed. The matter is required to be reconsidered. The Affiliation And New Teaching Programme Committee alone has to constitute a new team for inspection and thereafter the law will take its course as per the procedure in the statute.

16. It is hoped and expected that an early decision in this regard will emerge preferably within a period of three months.

17. Before parting, the Court also observes that a fair offer made by learned senior counsel for the petitioner for an inspection at the convenience of the University is still open and they will be not retracting from that position any time from now.

**(Ajay Kumar Tripathi, J.)**

S.Kumar/-

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