

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.243 of 2016**

**IN**

**Civil Writ Jurisdiction Case No. 13858 of 2014**

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Sarangdhar Kumar, S/o Sri Girdhari Sharma, R/o Mohalla- New Anandpuri, P.S.-  
Khagaul, District- Patna.

.... .... Appellant

Versus

1. The State of Bihar through the Principal Secretary, Department of Education,  
Government of Bihar, Patna.
2. The Lalit Narayan Mithila University, Darbhanga, through its Registrar.
3. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
4. The Registrar, Lalit Narayan Mithila University, Darbhanga.
5. The Controller of Examinations, Lalit Narayan Mithila University, Darbhanga.

.... .... Respondents

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**Appearance :**

|                      |   |                                                                |
|----------------------|---|----------------------------------------------------------------|
| For the Appellant/s  | : | Mr. Abhimanyu Vatsa, Advocate<br>Mr. Amarendra Kumar, Advocate |
| For the Respondent/s | : | Mr. S.D. Yadav, AAG-IX                                         |
| For the University   | : | Mr. Ajay Bihari Sinha, Advocate<br>Mr. Nadim Seraj, Advocate   |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH**

**C.A.V. JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH)**

**Date: 08-09-2016**

Heard Mr. Abhimanyu Vatsa, learned counsel appearing  
for the appellant, and Mr. Ajay Bihari Sinha, learned counsel  
appearing on behalf of University.

2. The present appeal is directed against the judgment,  
dated 02.11.2015, passed in C.W.J.C. No. 13858 of 2014, whereby the  
learned single Judge declined to pass any order / direction in favour of  
the writ petitioner to register him as a Ph.D. candidate for research  
under Lalit Narayan Mithila University, Darbhanga (hereinafter

referred to as 'the L.N. Mithila University').

3. The order of the learned single Judge is founded on the ground that in view of letter, dated 02.05.2013, of Education Department, only those persons, who had passed the Pre-Registration Examination conducted by Aryabhatta Knowledge University since 2013, could register with the University and not for candidates, who have passed the Pre-Registration from other universities prior to 2013.

4. Before we consider the case of the writ petitioner-appellant, it would be necessary to notice, in brief, the facts of the case, which may be set out as follows:

Pursuant to an advertisement, the writ petitioner-appellant applied for Pre-Registration Test for Ph.D., in the subject Anatomy (in medical faculty). The writ petitioner-appellant appeared in the examination on 23.05.2011 and was declared successful. As required, he submitted a *synopsis* within one year of passing of the examination. The University appointed one Dr. S. K. Sinha, Associate Professor of the Department of Anatomy of Katihar Medical College, as an expert for the Departmental Research Committee (DRC). The Committee, upon due deliberation, decided to grant permission to the writ petitioner-appellant for registration in Ph.D. degree and made necessary recommendations to the L. N. Mithila University. In the meantime, a new institution, namely, Aryabhatta Knowledge

University was created as a nodal University for grant of degrees for technical courses, like Medical and Engineering including Ph.D. The L. N. Mithila University, as such, forwarded to the new University, the papers for registration, which the petitioner had submitted.

5. While the matter was pending with Aryabhatta Knowledge University, the Education Department issued a communication, dated 02.05.2013, to the effect that only those persons, who have passed the Pre-Registration Examination, conducted by Aryabhatta Knowledge University since 2013, could register with the University and not the people, who had passed the Pre-Registration from other universities prior to 2013. The Aryabhatta Knowledge University accordingly communicated its decision, dated 22.05.2013, to the L. N. Mithila University and also returned the papers of the petitioner to the said university.

6. The appellant filed a writ application, bearing C.W.J.C. No. 13858 of 2013, for a direction to the respondent university to register him as a Ph.D. candidate, which the learned single Judge declined to accept for the reasons already mentioned in the earlier paragraphs.

7. Learned counsel for the appellant submits that in the year 2011, the appellant had successfully appeared in the Pre-Registration Test for Ph.D. and submitted his *synopsis* for registration



as a regular Ph.D. candidate. Within a year of the declaration of the result, the Departmental Research Committee even recommended his case for registration as Ph.D. from L.N. Mithila University and even appointed one Dr. S. K. Sinha, Associate Professor, Department of Anatomy, Katihar Medical College, Katihar, as a guide. In the meantime, Aryabhata Knowledge University was created, which became the nodal university for granting technical degrees in Medical and Engineering including Ph.D. The writ petitioner-appellant submits that since the Departmental Research Committee had recommended his case for registration under L.N. Mithila University prior to creation of Aryabhata Knowledge University, his case would not be hit by letter, dated 02.05.2013, of the Education Department putting an embargo that only those persons, who had passed Pre-Registration Examination conducted by Aryabhata Knowledge University since 2013, could register with the University and not the one, who had passed the Pre-Registration Examination from any other University. Learned counsel submits that the appellant should not be made to suffer for no fault of his own.

8. On the other hand, counsel for the respondents has justified the order passed by the learned single Judge.

9. We find that the writ petitioner-petitioner was the student of Manipal University and not the student of Darbhanga

Medical College and Hospital. Further-more, the guide of the writ petitioner-appellant was transferred and posted at Pawapuri Medical College, in June, 2012, which does not come within L. N. Mithila University.

10. As per the requirement, a candidate can pursue his Ph.D in a college, only if either of the two, the student or the guide, belong to the institution/university. The petitioner also never submitted any application for change of guide, while the issue of his permanent registration as a Ph.D. candidate was pending and, in the meanwhile, Aryabhatta Knowledge University was created, as a nodal institution, for grant of degree for technical courses, like Medical and Engineering including Ph.D. Further-more, as per letter, dated 02.05.2013, of the Education Department, the Aryabhatta Knowledge University was right in returning the papers of the writ petitioner-appellant for registration as Ph.D. candidate, because of the embargo to the effect that only such candidates can be admitted for registration after 2013, who have passed the Pre-Registration Examination from Aryabhatta Knowledge University.

11. In view of the factual aspects, noted above, we find no error, legal or factual, with the order, dated 02.11.2015, passed, in C.W.J.C. No. 13858 of 2014, declining to issue any direction to L. N. Mithila University to register the writ petitioner, as a Ph.D. candidate,

as the earlier exercise was futile.

12. In the result, the appeal is dismissed. However, the order of this Court would not come in the way of the writ petitioner-appellant, if he so desires, to appear in Pre-Registration Examination conducted by Aryabhata Knowledge University for registration as a Ph.D. candidate.

**(Samarendra Pratap Singh, J)**

**I. A. Ansari, CJ: I agree**

**(I. A. Ansari, CJ.)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | 24.08.2016 |
| Uploading Date    | 14.092016  |
| Transmission Date |            |