

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1542 of 2017

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Sweta @ Sweta Raj Wife of Abhinay Rai, Resident of C/O Mr. Devendra Kumar Sinha, Dharmshobha, Back of Officers' Hostel, Bailey Raod, Town and District Patna.

... .. Petitioner/s

Versus

1. The Patna University, Patna, through its Registrar.
2. The Vice Chancellor, Patna University, Patna.
3. The Registrar, Patna University, Patna.
4. The Deputy Registrar, Patna University, Patna.
5. The Examination Controller, Patna University, Patna.
6. The Head of Department, Hindi, P.G. Department, Patna University, Patna.
7. The Chancellor, Universities of Bihar, Raj Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate
with Mr. Mayank Rukhaiyar		
For the Respondent/s	:	Mrs. Nivedita Nirvikar, Advocate
For the U.G. C.	:	Mr. A.N. Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 09-08-2017

The present writ application has been filed on behalf of the petitioner seeking direction to the Patna University to recall letter No.Acad/297, dated 11.04.2016, issued by the Deputy Registrar, Patna University and for a further direction to the respondent-University to issue certificate of completion of Ph.D. under the University Grants Commission (Minimum Standard and Procedure For Awards of M.Phil./Ph.D. Degree) Regulation, 2009 (hereinafter referred to as the Regulation, 2009), in terms of clarification issued by the University Grants Commission, as notified under the University Grants Commission (Minimum



Standard and Procedure for Award of M.Phil./PH.D Degrees) Regulations, 2016 (hereinafter referred to as the Regulation, 2016).

2. There are certain facts which are not in dispute. The 2009 Regulations, came to be published in the Gazette of India on 11.07.2009. The said Regulations specifically provide *inter alia* that they shall come into force with effect from the date of their publication in the Gazette of India. The petitioner had applied for Pre-Ph.D. Entrance Test, which she qualified on 21.02.2009. She got herself enrolled as Ph.D. student of Patna University in the Department of Humanities with Hindi as the subject. She submitted her thesis for award of Ph.D on 04.09.2013. She was awarded Ph.D. Degree on 18.12.2014. The 2009 Regulations have since been substituted by subsequent University Grants Commission (Minimum Standard and Procedure For Awards of M.Phil./Ph.D. Degree) Regulation, 2016 (hereinafter referred to as Regulations, 2016). Clause 12.1 of 2016 Regulations reads thus:-

“12.1. Award of degrees to candidates registered for the M.Phil./Ph.D. programme on or after July 11, 2009 till the date of Notification of these Regulations shall be governed by the provisions of the UGC (Minimum Standards and procedure for Awards of M.Phil/Ph.D Degree) Regulation, 2009”



3. The Regulations, 2009 lay down the procedure for admission; eligibility criteria for admission for the faculty to be recognized as Research Supervisor, both for M.Phil and Ph.D. Programmes; allocation of Supervisor; Course work and evaluation and assessment methods, *inter alia*.

4. Clauses 13 to 18, which deal with the Course work and evaluation and assessment methods, which are relevant for the present adjudication, are being quoted herein below:-

“13. After having been admitted, each M.Phil/Ph.D student shall be required by the Universities, Institutions, Deemed to be Universities and Colleges/Institutions of National Importance, as the case may be, to undertake course work for a minimum period of one semester. The course work shall be treated as pre M.Phil/Ph.D preparation and must include a course on research methodology which may include quantitative methods and Computer Applications. It may also involve reviewing of published research in the relevant field. The individual Universities, Institutions, Deemed to be Universities and Colleges/Institutions of National Importance, as the case may be, shall decide the minimum qualifying requirement for allowing a student to proceed further with the writing of the dissertation. If found necessary, course work may be carried out by the doctoral candidates in sister Departments/ Institutes either within or outside the University for which due credit will be given to them.



14. Upon satisfactory completion of course work and research methodology, which shall form part and parcel of M.Phil/Ph.D. Programme, the M.Phil/Ph.D. *Scholar shall undertake research work and produce a draft thesis within a reasonable time, as stipulated by the Institution concerned.*(Emphasis supplied).

15. *Prior to submission of the thesis, the student shall make a pre-M.phil/Ph.D presentation in the Department that may be open to all faculty members and research students, for getting feedback and comments, which may be suitably incorporated into the draft thesis under the advice of the supervisor.*(Emphasis supplied)

16. Ph.D candidates shall publish one research paper in a referred Journal before the submission of the thesis/monograph for adjudication, and produce evidence for the same in the form of acceptance letter or the reprint.

17. The thesis produced by the M.Phil/Ph.D student in the Institutions/Departments and submitted to the University, Institution, Deemed to be University, College/Institution of National Importance, as the case may be, shall be evaluted by at least two experts, out of which at least one shall be from outside the State. It shall be upto the University, Institution, Deemed to be University, College/Institution of National Importance concerned to have one examiner from outside the Country.

18. On receipt of satisfactory evaluation reports, M.Phil/Ph.D students shall undergo a viva voce examination which shall also be openly defended.”



5. The petitioner can make out a case requiring this Court to direct the University to issue a certificate to the effect that the Ph.D. Degree, which she obtained was in accordance with the Regulations, 2009 by invoking Regulation 12.1 of Regulation, 2016, if she can satisfy this Court that she fulfilled the requirements of the said Clauses 13 to 18.

6. In response to a query made by this Court as to how petitioner could satisfy that all the formalities were completed before the award of Ph.D. Degree in terms of Regulations 2009, a supplementary affidavit has been filed on behalf of the petitioner. Referring to the requirement of Clause 13, it is the specific contention on behalf of the petitioner that the petitioner was made to study two papers on research methodology and Computer application and after conducting the test of both the papers, a certificate was issued in favour of the petitioner certifying that she had completed six months' one semester course work. However, in relation to requirements under Clauses 14, 15 and 16, it is evident from what has been stated in the supplementary affidavit that those requirements were not taken care of by the University, in order to treat the Ph.D. Degree to have been awarded under Regulations, 2009. Clause 14 of the Regulations, 2009 requires that upon satisfactory completion of the course



work and research methodology, which shall form part and parcel of M.Phil/Ph.D. Programme, the M.Phil/Ph.D Scholar shall be required to do research work and "produce draft thesis within a reasonable time as stipulated by the Institution concerned."

Clause 15 requires that prior to submission of the thesis, the research Scholar shall make a pre-M.Phil./Ph.D. presentation in the Department that may be open to all faculty members and research students, for getting feedback and comments, which may be suitably incorporated into the draft thesis under the advice of the supervisor". Clause 16 requires that the Ph.D. candidate shall publish one research paper in a referred Journal before the submission of the thesis/monograph for adjudication, and produce evidence for the same in the form of acceptance letter or the reprint.

7. It is not even the case of the petitioner that these formalities were completed. It is the case of the petitioner, however, that the petitioner had produced acceptance letter for publication of the research paper, though the research paper was published after submission of the thesis. From the Regulations, it appears that there was mandatory requirement for production of a draft thesis for the purpose of making presentation in the Department, which was not followed. I, therefore, find it difficult to direct the



University to grant certificate that the Ph.D. Degree, which the petitioner obtained was in accord with Regulations, 2009. Clause 12.1 of 2016 Regulations is also of no help for the relief as sought for in the present writ application by the petitioner. It is clear on a close reading of Clause 12.1, that award of degrees to the candidate registered for the M.Phil/Ph.D. programme on or after July, 2009, till the notification 2016 Regulations shall be governed by previous University Grants Commission Regulations, 2009. It cannot be said that the petitioner completed her Ph.D. Course in accordance with the Regulations as has been noted above. In that view of the matter, no relief as sought for by the petitioner can be granted.

8. But this is not the end of the matter.

9. In response to queries made by this Court as to why the University did not comply with the provisions of Regulations, 2009 which came into force with effect from 11.07.2009, counter affidavit has been filed on behalf of the University stating therein that the Uniform Ordinance and Regulations governing Ph.D. course in the Universities of Bihar was adopted by the Universities only in November, 2012. In that background the University intentionally did not follow the requirements of Regulation 2009 for the purpose of award of Ph.D. Degree. It is



also stated in the counter affidavit that after uniform Ordinance and Regulations were adopted in November, 2012, the petitioner had a chance to apply for fresh registration under the University Grants Commission, Regulations, 2009, which was done in case of other candidates. The effect of Patna University or other Universities in the State of Bihar not following 2009 Regulations for the purpose of award of Ph.D. Degrees till November, 2012 is that the said degrees cannot be treated to be qualification for appointment to the post of Assistant Professors in the Colleges of the Universities though out the Country. The impression, which the Court has gathered from the stand taken on behalf of the Patna University is that Patna University decided to convert those Research Scholars already doing Ph.D. Course but not registered under Regulations, 2009 as Research Scholars under Regulations, 2000 on 03.11.2014.

10. As has been noticed, the petitioner had already submitted her thesis for award of Ph.D in the year 2013 itself and she was awarded Ph.D. Degree on 18.11.2014. She, thus, did not have any opportunity to convert her Ph.D. Course and to complete it in terms of the requirements under Regulations, 2009.



11. Learned counsel appearing on behalf of the Patna University has drawn my attention to decision taken by the Academic Council in its meetings held on 27.05.2017 and 30.05.2017, whereby a format has been approved for the purpose of grant of certificate but that is subject to seeking clarification from the University Grants Commission on the issue of publication of two research papers/presentation of two research papers in seminars/conferences during his/her Ph.D. work or even after the award of Ph.D. degree whenever he/she publishes research paper and presented research paper in seminars/conferences, in continuation of the University letter, dated 21.04.2017. The said approved format has been sent to the University Grants Commission for approval on the said issue.

12. The matter thus rests on the mercy of the University and the University Grants Commission to decide whether such Ph.D. Degree holder can be treated to have been awarded Ph.D. Degree in accordance with 2009 Regulations or not, in such circumstance.

13. At this stage, the Court does not intend to make any comment but to deprecate the attitude of the University in not following the requirements laid down under 2009 Regulations for award of Ph.D. Degree. The insensitivity of the University functionaries is



more painful than their inaction while dealing with such issues, which touch the whole career of a student after having pursued Ph.D. Degree. According to stand of the University itself, which is still considered to be most prestigious in the State of Bihar, the Ph.D. degree conferred by it on the petitioner much after 2009 doesn't make the scholar, eligible for appointment as Assistant Professor. Least said the better, about the conduct of the University Grants commission. Previous orders passed in this case are illustrative of their approach. The Court considers it inappropriate to waste further time by deprecating their conduct any more.

14. The net result of the entire exercise for the relief as sought for by the petitioner, cannot be granted.

15. This application stands dismissed with the observation as above.

16. Interlocutory Applications also stand disposed of.

(Chakradhari Sharan Singh, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	10.08.2017
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