

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4113 of 2017

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Sunil Kumar son of Kanhaiya Paswan Resident of Village - Mohaniya, P.S. Karaghar, P.O. Barkhikharari, District Rohtas, Sasaram, Bihar.

.... Petitioner/s

Versus

1. Bhupendra Narayan Mandal University (B.N.Mandal University) through the Registrar, Laloo Nagar, Madhepura.
2. The Vice-Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura.
3. The Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.
4. The Controller of Examination, B.N. Mandal University, Laloo Nagar, Madhepura.
5. The Millia Institute of Technology through the Director, Rambagh, Purnea.
6. The Director, Millia Institute of Technology, Rambagh, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kant, Adv.

For the Respondent/s : Mr. Rajesh Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 05-12-2017

The petitioner seeks quashing of the reasoned order dated 30.11.2016 passed by the Controller of Examination, B.N. Mandal University, Madhepura in compliance of an order of this court dated 24.06.2016 in C.W.J.C. No. 15472/2015.

It appears that seeking a direction for publication of the petitioner's result of his B.Tech examination, he had earlier approached this court by filing the said C.W.J.C. No. 15472/2015 whereupon this court had directed the Controller of Examination B.N. Mandal University, Madhepura to pass a reasoned order on his claim



and accordingly, the said reasoned order has been passed. The petitioner's claim has been rejected by the Controller of Examination on the ground that he got himself appeared for the B. Tech third year and B. Tech fourth year examination in breach of the provision contained in the regulations governing the examination.

Before I take note of the admitted facts pleaded in the writ application, I must refer to the relevant regulations and scheme for the B.Tech examination framed by the University which has been brought on record by way of Annexure-B to the Counter Affidavit filed on behalf of the University.

Regulation 12(i) of the said Examination Regulations reads thus:-

“If at any examination, a candidate passes in sessional work but fails in not more than three subjects he may be promoted to the next higher class. Such candidates shall be required to appear and pass in the written papers of the subject(s) in which he has failed in the next examination along with the subjects of the next higher class. If he fails in more than three subjects he may appear as non collegiate candidate in the subsequent examination, but shall have to appear in all the subjects. If he fails in sessional work, he has to take re-admission.” (emphasis supplied)

A careful reading of the said regulation 12(i) envisages



following three situations:-

(i) when a candidate passes in sessional work, but fails in not more than three subjects

(ii) if a candidate passes in sessional work, but fails in more than three subjects and

(iii) when a candidate fails in sessional work

In situation (i) above, the candidate may be promoted to the next higher class whereafter he is required to appear and pass in the written papers of the subjects in which he had failed, in the next examination along with the subjects of next higher class. In the (ii) situation, the candidate is required to appear as a non collegiate candidate in the subsequent examination and is required to appear in all subjects. In the (iii) situation, the candidate is required to take re-admission.

After having noticed the said provision of the regulation, let me examine the facts of the present case. The petitioner was admitted to B. Tech course in the year 2005 in Millia Institute of Technology, Rambagh, Purnea. He cleared first year examination held in the year 2006. In the second year examination held in the year 2007 he failed in four papers. However, in the year 2008, he is said to have cleared all the second year papers and was promoted to third year in 2009. He cleared all the third year papers whereafter he was promoted to fourth



year. This is not in dispute that he could not clear the sessional work of third year. However, he was given promotion to fourth year. It is the case of the petitioner that in fourth year the petitioner was made to appear in all the papers of third year and fourth year (total sixteen), since he had not cleared the sessional work. He cleared fifteen out of sixteen papers, but could not clear one paper of third year. He was allowed to appear for the paper of third year in which he had failed in the examination held in the year 2013, in the subsequent examination held in the year 2014 which he subsequently cleared.

In the background of above facts, the petitioner had sought for a direction of publication of his result since he has cleared all the theory papers and sessional work also of the fourth year. This is the background in which this court had directed the Controller of the Examination to consider the petitioner's case for publication of result and pass a reasoned order.

In the Counter Affidavit, plea has been taken in paragraph 7 that the petitioner did not choose to appear in third year examination and he cleared only theory papers in third year examination in the year 2010 and chose not to appear in third year examination in the year 2011.

Apparently, the petitioner could not clear the sessional work of the third year examination. The regulation as quoted above



specifically provides that if a candidate fails in sessional work, he will have to take re-admission. This was not complied with. In this situation, promotion allowed to the petitioner to higher class, was clearly in violation of the regulation 12(i) as quoted above.

Learned counsel appearing on behalf of the petitioner has relied upon certain orders of this court to submit that once the petitioner was allowed to appear in the examination and he had admittedly cleared all the papers, his result should not be allowed to be withheld. The said orders are dated 22.11.2016 passed in C.W.J.C. No. 7065/2016 and 21.07.2010 passed in C.W.J.C. No. 10676/2010. The said orders/decisions of this court, in my view do not lay down a law that even if any student is allowed to take examination in breach of examination regulation, his result should be published.

Learned counsel for the petitioner has attempted to convince this court that in the absence of any allegation of mis-representation or fraud against the petitioner in allowing him to appear in the examination in question, the result should not be allowed to be withheld, is not convincing. The result can not be directed by this court to be published by the University in violation of the provisions of the regulation. This view finds support from Division Bench decision of this court in case Mihir Kumar Jha vs. B. N. Mandal University, Madhepura dated 07.01.2015 passed in L.P.A. No.



904/2014.

In view of the above, the decision of the University does not require interference. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
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