

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9160 of 2017

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Sunil Singh Yadav Degree College, Indrhiyan, Sasaram, District- Rohtas through its Principal Priyanka Kumari, W/o Sunil Kumar Singh, Village- Indrahiya, P.O.- Karun Indrhiyan, P.S.- Sasarm Moffasil, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. Veer Kuwar Singh University, Arrah through its Registrar.
4. The Vice Chancellor, Veer Kuwar Singh University, Arrah.
5. The Registrar, Veer Kuwar Singh University, Arrah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Adv.
For the University : Mr. Rajesh Prasad Choudhary, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date : 04-09-2017

Sunil Singh Yadav Degree College, Indrhiyan, Sasaram (Rohtas) (*hereinafter referred to as the 'college'*), it is being claimed, was established in the year 2010 to cater educational need of local area. On the basis of an inspection, conducted by a team appointed for the said purpose by the Veer Kunwar Singh, University, Arrah (*hereinafter referred to as the 'University'*), it is stated, college was granted affiliation of B.Sc., B.Com (Hons./Pass), on 05.12.2012, for one Academic Session, *i.e.*, 2011-14. The said letter, dated 05.12.2012, issued by the University, has been brought on record by way of Annexure-4 to this writ application from which it appears that it was based on a decision



taken by the Syndicate of the University in its meeting held on 01.12.2012, in anticipation of its approval by the Senate of the University. The letter explicitly indicated that the facility of giving admission to students shall stand automatically terminated, in case approval by the State Government, of affiliation of the college, was not received.

2. There is nothing on record to show that the State Government ever granted any approval or the University ever sought approval of the affiliation, so granted from the State Government.

3. The college, in question, is a privately managed college and has approached this Court seeking quashing of letter, dated 08.06.2017, whereby, the University has informed the college that it will consider the case for extension of affiliation of the college, only after the piece of land, over which the college is situated, is registered in the name of the Governor of Bihar. It is the case of the petitioner that there is no requirement that the land of the college should be transferred in the name of the Governor of Bihar, for the purpose of considering the case for affiliation/extension of affiliation, with the University.



4. I have heard Mr. Sunil Kumar Singh, learned counsel appearing on behalf of the petitioner, and Mr. Rajesh Prasad Choudhary, learned counsel representing the University.

5. In course of hearing of the application, a question arose, which goes to the root of the matter, *i.e.*, as to whether the college, in question, can be said to be having affiliation in accordance with statutory provisions for any Academic Session, by virtue of decision of the Syndicate or Senate of the University, in the absence of approval of such affiliation by the State Government. Before I address the the said question, I may again come back to the claim of the petitioner-college of having affiliation with the University in certain courses.

6. As has already been noticed, it is the petitioner's claim that the college was granted affiliation for one Academic Session, *i.e.*, 2011-14, the students were allowed admissions in the said college and they appeared for the examination held in the year 2014. It baffling to find as to how the Syndicate and Senate of the University decided to grant affiliation in the end of the year 2012 for the Academic Session 2011-14. It is also amusing to note as to how the college gave admissions to the students for the Academic Session 2011-14, when the so called affiliation was granted by the University on 05.12.2012. Further, in the letter, dated 05.12.2012



(*supra*), it was specifically mentioned that facility of giving admission shall stand terminated automatically, if no approval of affiliation was received from the State Government. It is reiterated that it is an admitted fact that the State Government has never approved affiliation, granted to the college, of any nature for any course or session.

7. It is the case of the petitioner that affiliation of the college was extended from time to time. There is, however, nothing on record to show the nature of extension of such affiliation.

8. It has been asserted on behalf of the petitioner that on 10.06.2016, the petitioner-college was asked to deposit a sum of Rs. 50,000/- for permanent affiliation, which the petitioner deposited. Thereafter, on 29.04.2017, the petitioner was asked to make available certain documents for permanent affiliation, which were submitted. Finally, on 08.06.2017, the Registrar of the University informed the petitioner-college that the Affiliation and New Courses Committee had decided, on 20.05.2017, that question of extension of affiliation can be considered only if the land belonging to college was registered in the name of the Governor of Bihar. The case of the petitioner is that there is no statutory or other requirement, which contemplates transfer of the land in the name of the Governor of Bihar for grant of affiliation.



The requirement, under the Statute, relating to admission and exclusion of colleges, other than those managed and maintained by the University, is that the institution must own and possess at least 10 acres of land for the college buildings, hostels, quarters and play-grounds, if situated in rural area, or 5 acres of land, if situated in in urban area, in not more than two blocks, the petitioner asserts.

9. It is the further case of the petitioner-college that career of the students, who have been given admissions in B.A. B.Sc. B.Com (Hons. Pass) courses in the college, for the Academic Session 2016-19, shall be ruined, if permanent affiliation is not granted.

10. So far the question as to whether there is any requirement for transfer of land in the name of Governor of Bihar, as condition precedent for grant of affiliation, is concerned, though a counter affidavit has been filed on behalf of the University, nothing specific has been shown, which can be considered to be statutory or binding requirement of such transfer. An affidavit, sworn by the Principal of the college, has been brought on record on behalf of the University in order to take a plea that the Principal had agreed for getting the land transferred in the name of the Governor



of Bihar and now the college cannot retract and refuse to transfer the land, if the college is desirous of getting affiliation.

11. Since there is no requirement, which has been brought to my notice, that it is condition precedent for transfer of land over which the petitioner-college is situated in favour of the Governor of Bihar for grant of affiliation, respondents cannot compel the petitioner-college to do so.

12. The impugned decision of the University, as contained in Annexure-1 to this writ application, dated 08.06.2017, is quashed, but to the limited extent that transfer of land in favour of the Governor of the Bihar is not a requirement for grant of affiliation and the question of affiliation is to be considered in accordance with the provisions/Act and the relevant Statute. This observation I have made in view of the language used in the impugned letter, dated 08.06.2017, which refers to 'extension of affiliation for the Academic Session 2016-19'. The language pre-supposes valid affiliation for previous Academic Sessions, which, in my view, is lacking.

13. In a recently decided matter, in '*Catalyst Institute of Management & Advance Globale Excellence (CIMAGE) Vs. Magadh University & Ors.*', dated 31.08.2017, passed in CWJC



No. 9684 of 2017 and other analogous cases, this Court, in paragraphs 1 – 3, has made following observation :-

“An affiliated college is an educational institution, having received the privileges of a University, according to the provisions of Bihar State Universities Act, 1976 (hereinafter referred to as the ‘Act’) and University Statutes relating thereto, within the meaning of Section 2 (c) of the Act. Clause 19 of sub-Section (1) of Section 4 of the Act confers upon a University, the power to affiliate or disaffiliate colleges according to the Statutes, subject to prior approval of the State Government.

2. Section 21 of the Act deals with the power and duties of the Senate. Clause (d) of sub-Section (2) of Section 21 of the Act thereof confers upon the Senate, powers to be exercised for the purpose of control in colleges and ‘superintendence which include affiliation and disaffiliation of colleges’.

3. The proviso to Clause (d) of sub-Section (2) of Section 21 of the Act mandates that affiliation or



disaffiliation of colleges shall not take effect, unless it is approved by the State Government.

14. As has already been noticed, any decision of the University to grant affiliation to the college was never approved by the State Government. The first proviso to Section 21 (2) (d) of the Bihar Universities Act, 1976, declares in negative the term and states that affiliation of a college shall not take effect, unless it is approved by the State Government.

15. Mr. Sunil Kr. Singh, learned counsel, appearing on behalf of the petitioner, has submitted, that once the Syndicate is satisfied that necessary conditions for starting classes are fulfilled, admissions can be given and, therefore, admissions can be allowed to different courses, referring to Article 3(6) of the Statute, which states 'no admission shall be made in the college, unless the Syndicate is satisfied that conditions necessary for started classes have been fulfilled'

16. The submission, so advanced on behalf of the petitioner, does not at all improve the case of the petitioner on the question as to whether the college had the status of an affiliated college, within the meaning of Section 2(c) of the Bihar Universities Act, 1976.

17. In view of the discussions as above, while interfering with the impugned letter, dated 08.06.2017, to the limited extent and for



the reason as has already been indicated above, I hold that the petitioner-college was not having the status of affiliated college, in the absence of approval of affiliation by the State Government. However, the University will be required to consider the case of the petitioner-college for grant of affiliation without requiring the college to transfer the land in favour of the Governor of the Bihar, unless there is some statutory provision in this regard, which skipped from the notice of the Court in the present proceeding. The University, by taking any decision, must keep in mind the fact that the Senate and Syndicate of the University had decided to grant affiliation to the college and in that background take the decision on the question of affiliation.

18. Impugned letter, dated 08.06.2017, is quashed.

19. This application is allowed with observations as above.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.09.2017
Transmission Date	N/A

