

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13491 of 2017

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K. S. College of Professional Education, Neora, Danapur, P.O. Neora,
Tehsil/Taluka- Bihta, Town/City- Danapur, District- Patna, Bihar -801113 through
its Director Nitish Singh, Son of Dr. Madan Murari.

.... Petitioner/s

Versus

1. Bihar School Examination Board, Sinha Library Road, Patna- 800017 through its Secretary.
2. The Chairman, Bihar School Examination Board, Sinha Library Road, Patna- 800017.
3. The Secretary, Bihar School Examination Board, Sinha Library Road, Patna- 800017.
4. National Council For Teacher Education, Eastern Regional Committee, 15, Neelakantha Nagar, Nayapalli, Bhubneshwar (Orissa) through its Regional Director.
5. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
6. Director, State Council For Education, Research & Training, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri, Adv.
For the State : Mr. Prabhakar Jha, GP-27
For the Board : Mr. Manish Kumar, Adv.
For the NCTE : Mr. Sunil Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 31-10-2017



This application has been filed by the petitioner-college, imparting education in Diploma in Elementary Education Course (*in short 'D.El.Ed.'*), *inter alia*. Admittedly, the petitioner-college has not been granted affiliation for the Academic Session 2016-18 by the Bihar School Examination Board (*in short 'the Board'*) so far, though it has recognition of the National Council for Teacher Education, under Section 15 (3) of the National Council for Teacher Education Act, 1993.

2. The consequence of absence of affiliation is that the students of the petitioner-college have not been allowed to appear in the examination conducted by the Board. The petitioner alleges discrimination, on the ground that whereas the students of Government run institutions, imparting D.El.Ed. course, have been allowed to appear for the said examination, despite absence of affiliation during the session in question, the students of the petitioner-college have not been allowed only because the college is managed and maintained by the private body.

3. This cannot be in dispute that the students of only such colleges are entitled to appear for the examination, which have the affiliation granted by the examining body.

4. Learned counsel, appearing on behalf of the petitioner, has drawn my attention to an order of this Court,



dated 21.10.2016, passed in CWJC No. 11089 of 2016 and other analogous cases, wherein also, an observation has been made that the Examination Board would not be obliged to hold any examination of students of such institutions, which have no affiliation of the Board. He has submitted that since the Board has allowed the students of non-affiliated State run institutions to appear for the examination, similar treatment should be directed to be given to the students of the petitioner-college.

5. I cannot accept such contention, as it is established principle of law that an illegality cannot be allowed to perpetuate. This Court is mandated to follow law and not illegality, if any, done by the instrumentalities of the State.

6. This application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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