

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4035 of 2017

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Kula Nand Jha, Son of Late Pandit Umakant Jha, R/o Village Birsair, P.S. Sakri, District Madhubani at present Director-cum- Principal of Mithila Hanumant National College of Health and Physical Education, Goi Mishra Lagma, Ghanshyampur, District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Art Culture and Youth Department, Govt. of Bihar, Patna.
2. The Director, Art Culture and Youth Department, Govt. of Bihar, Patna.
3. The National Council for Teacher Education, Eastern Regional Committee, Nayapalli, Bhuneshwar, Orissa, through the Regional Director.
4. The Regional Director, National Council for Teacher Education, Eastern Regional Committee, Nayapalli, Bhuneshwar, Orissa.
5. The Bihar School Examination Board, through the Secretary, Budha Marg, Patna.
6. The Secretary, Bihar School Examination Board, Budha Marg, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kripa Nand Jha, Advocate
For the Respondent/s	:	Mr. SARVESH KR. SINGH- AAG13
For the Board	:	Mr. Manish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 12-10-2017 Heard learned counsel for the parties.

2. This writ application has been filed by Kula Nand Jha, claiming to be the Director-cum-Principal of Mithila Hanumant National College of Health and Physical Education, Goi Mishra Lagma, Ghanshyampur, District-Darbhangha, seeking direction to the respondents, particularly, Respondent Nos. 5 and 6 to conduct/hold examination of Diploma in Physical Education and Certificate of Physical Education of the students of the College, which is duly recognized by the National Council for



Teacher Education (NCTE), Eastern Regional Committee, Bhubaneswar, Orissa.

3. Counter affidavits have been filed on behalf of the respondent- Bihar School Examination Board and the State of Bihar also. The facts asserted in the writ application have not been denied in the said counter affidavits. It is the specific case of the petitioner that the NCTE granted recognition to the Institution under Section 14(3) (a) & (4) of the National Council For Teacher Education Act, 1993 (hereinafter referred to as the Act). It is the case of the petitioner that thereafter the College approached the Bihar School Examination Board, which is the examining body to issue formal order of affiliation but till date nothing has been done.

4. In the counter affidavit filed on behalf of the Bihar School Examination Board, following statements have been made in paragraphs 3 to 6:-

“3. That it is submitted the institution in question namely Mithila Hanumant National College of Health and Physical Education, Goi Mishra Lagama Ghanshyampur, Darbhanga, is a college imparting health and physical education among the students, which has ultimately been granted recognition by the Eastern Regional Committee of the NCTE in terms of its Regulation Act, subject to fulfillment of certain conditions as well, which is apparent from order granting



recognition as contained in order bearing No. 30756 dated 03.03.2015 (Annexure- 3 of the present writ).

4. That with regard to the core issue raised through the present petition it is very humbly and respectfully submitted that as per records, the Board till date has not defined any norm nor formulated any guidelines/regulation for grant of affiliation to the college/institution of Health and Physical Education and in such attending backdrop granting of affiliation to College/institution of Health and physical Education in the past cannot be termed as proper and appropriate.

5. That it would be not out of place to point out here that earlier the Board issued to grant affiliation to such college/institution of health and physical Education without any guideline without any defined norm or regulation to this effect.

6. That it is submitted that in order to formulate affiliation regulation needed for grant of affiliation to the institutions, due endeavors are under process and it is genuinely expected that the required affiliation regulation will be finalized at the earlier.”

5. Admittedly thus, the Board has refused to grant affiliation to the Institution on the ground of absence of any affiliation regulation formulated by the Board. Section 14(6) of the Act commands every examining body to grant affiliation to the Institution after receipt of the order granting recognition under Sub-Section (4) of Section 14 of the Act. The Board does not dispute the fact that it is in receipt of the order of the NCTE



granting recognition under Sub-Section (4) of Section 14 of the Act.

6. The Board, in my opinion, after having received the recognition order under Sub-Section (4) of Section 14 of the Act was obliged to grant affiliation by operation of Sub-Section(6) of Section 14 of the Act.

7. Section 14 (6) of the Act, which reads thus:-

“14. Recognition of institutions offering
course or training in teacher education.

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(6) Every examining body shall, on receipt
of the order under Sub-Section (4),-

(a) grant affiliation to the institution,
where recognition has been granted; or

(b) cancel the affiliation of the institution,
where recognition has been refused.”

8. On the ground that affiliation regulations of the Board are not there regulating grant of affiliation, the mandatory statutory requirement under Section 14(6) of the Act cannot be rendered otiose.

9. The recognition by the NCTE was granted in the year 2015. The Court is shocked and surprised to experience the conduct of the Bihar School Examination Board in keeping such matters pending for years together without any valid and justifiable reason. The reason, which has been put forward in the counter affidavit is preposterous and cannot be accepted at



all.

10. In the facts and circumstances of the case, I direct the Chairman of the Bihar School Examination Board to complete the formality of granting affiliation in favour of the College in question within two weeks from today, by applying Sub Section (6) of Section 14 of the Act.

11. This application is, accordingly, allowed with the aforesaid direction.

12. Since there is no plausible explanation for keeping the matter pending for all these two years in complete breach of mandatory statutory requirement under Sub-Section (6) of Section 14 of the Act, because of which the students of the institution could not be allowed to conduct the course in question, despite maintaining the requisite infrastructure, I consider it a fit case for award of compensation and imposition of exemplary cost.

13. Keeping in mind the apparent loss suffered by the institution because of inaction on the part of the Board which compelled the petitioner to litigate by filing the present writ petition, I direct the Board to pay a sum of Rs. 5 lakh by way of compensation and cost to the petitioner-College within a period of three months from today. The amount shall, however,



be utilized by the College for the welfare of the students of the
said College and not otherwise.

(Chakradhari Sharan Singh, J)

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