

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18278 of 2016

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Dibakar Mandal Son of Birendra Prasad Manal Resident of Village-Batheli, Police Station-Katihar, District-Katihar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Higher Education, Old Secretariat, Bihar, Patna
2. The B.N. Mandal University, Madhepura through its Vice Chancellor
3. The Vice Chancellor, B.N. Mandal University, Madhepura
4. The Registrar, B.N. Mandal University, Madhepura
5. The Controller of Examination, B.N. Mandal University, Madhepura
6. The Principal, K.B. Jha College, Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Adv.
For the Respondent/s : Mr. ASHUTOSH RANJAN PANDEY-AAG15
Mr. Amarendra Kumar, AC to AAG-15
For the University : Mr. Raju Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 06-12-2017

Heard the parties.

The petitioner has sought for a direction commanding the respondent B. N. Mandal University, Madhepura to publish the result of Vth and VIth semester examination of B.C.A. Course for the Session 2008-2011 which the petitioner had pursued as student of K.B. Jha College, Katihar, under B.N. Mandal University, Madhepura.

Facts are not at all in dispute. The petitioner was admitted to B.C.A. Course for the said session and he had appeared for Ist



semester examination held in September, 2009 and was declared 'pass'. He is said to have appeared in IInd semester examination held in March, 2010 and IIIrd semester examination also held in 2010 and was declared 'pass'. He is said to have cleared IVth semester examination also. In Vth semester examination he failed in one subject, which he subsequently cleared in the year 2012.

Thereafter, he appeared in VIth semester examination which was required to be held in June, 2014 and was in fact held in August, 2015. His result of Vth semester examination and VIth semester examination is not being published on the plea that the Regulation IX (B) of B.C.A. Regulation mandates that a candidate must clear the examination within three years. The said Regulation IX(B) has been quoted in the counter affidavit filed on behalf of the University which is being produced hereinbelow:-

“A candidate having completed the course fails to appear at the examination or fails to pass the examination or does not clear any paper shall be allowed to appear at the subsequent examination in only that those parts in which he/she has failed or absented himself/herself on the payment of prescribed examination fee without being required to go through the course again. However, this opportunity shall be given in only two more examinations within a period not exceeding three years excluding the main examination held



at the end of session.”

It is evident from the regulation which have been quoted that a candidate, if a student fails to clear any paper, he is allowed to appear at the subsequent examination, in only those parts in which he/she has failed or absented himself/herself. It is however envisaged that this opportunity shall be given in only two more examinations held within a period not exceeding three years excluding the main examination held at the end of session.

It is apparent that there is no statement in the counter affidavit though, details has been given as regards the semester examinations taken by the petitioner, that the VIth semester examination of 2012 was not the main examination held for the said semester “at the end of session.”

Admittedly, the petitioner appeared in the examination held in the year 2015 of the year 2014. The main examination of 2012 was certainly required to be excluded for the purpose of calculating ‘two more examinations’ within the meaning of Regulation IX(B) of the B.C.A. Regulations. The petitioner could have accordingly taken examinations held in the year 2013 or 2014. The University is to be blamed, if the University could not hold the said 2014 examination within time and the University rather held the said examination of the year 2015 for which the petitioner appeared.



In view of the facts narrated above, I am of the view that the provision of Regulation IX (B) of the B.C.A. Regulation cannot be a bar for the University to publish the petitioner’s result. The University is accordingly directed to publish the result of the petitioner of Vth and VIth semester examinations preferably within a period of one month from the date of receipt/production of a copy of this order.

Accordingly, this application is allowed.

(Chakradhari Sharan Singh, J)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2017
Transmission Date	NA

