

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13640 of 2016

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1. Ashish Ranjan Singh S/o Shri Ranjit Kumar Singh, R/o Mohalla- Ramnagar,
P.O.- Polytechnic, P.S.- Kehatt, Distt.- Purnea.

.... Petitioner/s

Versus

1. The B. N. Mandal University through the Registrar, Laloo Nagar, Madhepura.
2. The Vice-Chancellor, B.N. Mandal University through the Registrar, Laloo Nagar, Madhepura.
3. The Registrar, B.N. Mandal University through the Registrar, Laloo Nagar, Madhepura.
4. The Controller of Examinations, B.N. Mandal University through the Registrar, Laloo Nagar, Madhepura.
5. The Officer on Special Duty (Technical), B.N. Mandal University through the Registrar, Laloo Nagar, Madhepura.
6. Millia Institute of Technology, through its Director, Rambagh, Purnea.
7. Director, Millia Institute of Technology, Rambagh, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Adv.
Mr. Brisketu Sharan Pandey, Adv.
For the University : Mr. Shashi Bhushan Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 30-10-2017

The petitioner seeks quashing of an order dated 11.05.2016 passed by the Registrar, B.N. Mandal University, Madhepura, whereby he has denied to publish the final result of B. Tech. Examination of the petitioner.

This is not in dispute that the petitioner was admitted to the said course in Millia Institute of Technology, Purnea in the year 2006, which is a 4-year course. He cleared five papers out of eight in the 1st year examination held in the year 2007 and was granted



promotion to the 2nd year. He cleared all the eight papers of the 2nd year and two papers out of three of the 1st year. 3rd year examination was held in June, 2009. The result was, however, not published by the University for reasons not known. The petitioner was allowed promotion to 4th year in 2010. After he appeared for the 4th year examination, result of 3rd year examination was published. On the basis the said result of 3rd year examination was found that the petitioner had cleared only two papers out of eight of the 3rd year examination. The petitioner cleared seven papers out of eight papers of 4th year. He also applied for appearing in such papers of previous years, in which he had failed. For example, he had failed in six papers of 3rd year examination, as per the result declared in July, 2010, and he, accordingly, filled up examination form for six papers only of 3rd year, and not all the eight papers, apparently because he had cleared two other papers.

In subsequent examinations, he has cleared all the papers. His result has, however, been withheld by the University on the ground that as per the Regulation and Scheme for the B.Tech Examination, since the petitioner had failed in more than three papers of the 3rd year examination, he was required to apply for all the papers of the 3rd year, whereas, he appeared only in such papers (6), in which he had earlier failed. This is the reason why the result has been



withheld and petitioner's request has been turned down by the impugned order dated 11.05.2016.

Learned senior counsel appearing on behalf of the petitioner has submitted that the petitioner was not stopped by the University or the College when he had applied for appearing only in such papers of 3rd year, in which he had failed. He was rather allowed to appear only for six papers of the 3rd year. According to him, had the petitioner been told that he was required to take all the papers of 3rd year, the University would have done so and he would not have withheld the chance to take those papers. Learned counsel has relied on a decision of the Hon'ble Supreme Court in case of *Shri Krishnan Vs. Kurukshetra University* reported in *1976(1) SCC 311* and order dated 22.11.2016 passed *C.W.J.C. No. 7065 of 2016* and also order dated 21.07.2010 passed in *C.W.J.C. No. 10676*.

Learned counsel appearing on behalf of the University, on the other hand, contends that it is a settled position of law that a result cannot be directed to be published contrary to the Regulations for examination. He has relied on a decision of this Court in case of *Mihir Kumar Jha Vs. Bhupendra Narayan Mandal University*, dated 24.04.2014 passed in C.W.J.C. No. 21660 of 2013. He contends that the Supreme Court does not lay down a law in case of *Shri Krishna Vs. Kurukshetra University* (Supra) that a result can be



directed to be published *de hors* the regulation governing examination.

A copy of the Regulation and the Scheme for the B.Tech Examination has been produced before me by the learned senior counsel appearing for the petitioner. Clause 12(I) of the said Regulation and Scheme is crucial for the present case and is being reproduced hereinbelow:

“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 added)

Close reading of the above would indicate *that* “if a candidate 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.”

As has been indicated above, the petitioner had failed in six papers and, therefore, strictly speaking as per the said provision, he was required to appear in all the subjects. He, on the other hand, appeared only in six papers in which he had failed. Applying strictly the said provision, the University can be said to be justified in refusing to publish the result of the petitioner.

But there is another significant aspect of the matter. There is no material on record to suggest that the University ever informed the petitioner that he could not appear only in those papers in which he had failed, in view of the said Clause 12 (i) of the Regulation. The University rather allowed him to appear only in six papers. There is no explanation put forth by the University as to why the petitioner was allowed to appear only in six papers. If the stand of the University is to be accepted, the entire exercise of the petitioner of appearing in six papers and clearing the said papers would stand frustrated and virtually nullified. It does not appear to be deliberate attempt of the petitioner to appear only in such papers, in which he had failed. The University apparently allowed him to appear only in six papers, which could have been objected at the very beginning.

Learned counsel appearing on behalf of the petitioner



appears to be right in his submission that once the University allowed the petitioner to appear in six papers out of eight papers, it cannot withhold the result now by invoking Clause 12(i) of the Regulation and Scheme of B.Tech Examination.

This is not in dispute that the petitioner has subsequently cleared all the papers.

In peculiar facts and circumstances of the present case, as noticed above, I am of the view that the University cannot punish the petitioner for its own fault of allowing the petitioner to take only six papers of 3rd year examination out of eight.

This application is, accordingly, disposed of with a direction to consider the petitioner’s case for publication of his result.

It is directed that the University shall not withhold the petitioner’s result on the ground that he had appeared only in six papers of the 3rd year examination.

(Chakradhari Sharan Singh, J.)

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