

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1154 of 2017

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1. Sri Suman Saurav, son of Sri M.P. Singh, resident of Village+P.O.+P.S. and District- Vaishali, Bihar.

2. Uday Kumar, son of Ram Pukar Singh, resident of Mohalla- Maharaj Colony, Pankha Tola, Kalam Bagh Chowk Ramna, District- Muzaffarpur, Bihar.

.... Petitioner/s

Versus

1. The Chancellor, Universities of Bihar.

2. Principal Secretary of Chancellor, Universities of Bihar.

3. The Joint Secretary, Chancellor Secretariat, Universities of Bihar, Patna.

4. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.

5. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.

6. The Director, Distance Education, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.

7. The Administrative Officer, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.

.... Respondent/s

WITH

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Civil Writ Jurisdiction Case No. 2292 of 2017

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1. Rajan Kumar, Son of Anil Kumar Jha, resident of Mohalla- Goraul, P.S.- Goraul, District- Vaishali.

2. Dinesh Kumar, Son of Kapileshwar Singh, resident of Dasrath Nagar, Mithanpura, P.S. Mithanpura, District- Muzaffarpur.

3. Kumari Nayan Tara, D/o Vijay Kumar Thakur, Resident of Village +P.O.- Pathahi, District- Muzaffarpur.

4. Umesh Kumar, Son of Bodhi Prasad, Resident of Village- Dharmagatur Bhatuha, P.S.- Pusa, District- Samastipur.

5. Rubi Kumari, D/o Jitan Rajak, resident of Village +P.O- Kabirchak, P.S.- Sadar, District- Darbhanga.



6. Nigam Nisha, D/o Niranjana Sharma, Resident of Village- Dharmagatur Bhatuha, P.S.- Pusa, District- Samastipur.
7. Bhagwan Ray, Son of Baidhnath Rai, Resident of Village + P.O.- Berua, P.S. Saraiya, District- Muzaffarpur.
8. Shrawani Shyamal, D/o Laxmi Prasad, resident of Village- Saidpura, P.S.- Kazi, District-Muzaffarpur.
9. Nisha, D/o Nawal Kishore Singh, resident of Village + P.O.- Chitrapauli, P.S.- Mahua, District-Vaishali.
10. Swati Kumari, D/o Ashok Kumar, resident of at Magarhatta, P.S.- Hazipur, District-Vaishali.
11. Annu Kumari, D/o Vinod Prasad Singh, resident of Village- Mohammadpur, P.O.- Sonaki, P.S.- Sadar Sonaki, District-Darbhanga.
12. Harsh Bhai Desai, Son of Bholu Bhai Desai, resident of Mohalla-Santa Colony, Near Bazar Samiti, P.S. Hajipur, District-Vaishali.
13. Rajesh Kumar, Son of Jai Kishore Prasad, resident of Village-Magar, P.O.- Sagharasultanpur, P.S.- Bhagwanpur Hat, District- Siwan.
14. Surbhi Srivastava, D/o Murari Saran Srivastava, resident of Village at Anandbagh, P.S.- Sheikhopur, District- West Champaran.
15. Alam Afreen, D/o Md. Ehsanul Hsan, resident of Mohalla- Sar Saiyed Colony, Sadaullapur, Near DAV School, Malighat, P.S.- Ahiyapur, District- Muzaffarpur.
16. Sujeeta Kumari, D/o Jay Shankar Ram, resident of Village- Fatehpur, P.S.- Damodarpur, District-Muzaffarpur.
17. Prabhakar Kumar, Son of Lalan Manjhi, resident of Village + P.O.- Eaikauli, Badu, P.S.- Phulbaria, District-Goalganj.
18. Ghaneshwar Paswan, Son of Ramdeo Paswan, resident of Village- Suleman Chak, P.O. + P.S.- Nagarnausa, District- Nalanda.
19. Neha Kumari, D/o Kamal Kumar Singh, resident of Mohalla- I.G. Colony, P.S.- Sadar, District- Muaffapur.
20. Smita Kumari, D/o Hare Ram Rai, resident of C/o Sanjay Kumar, House No. 301, Lane No. 03, V.C. Lane, P.S.- Mithanpura, District- Muzaffarpur.
21. Soni Kumari, D/o Baidhyanath Paswan, resident of Village + P.O.- Chauhari, P.S.- Chanpatia, District- West Champaran.
22. Prity Kumari, D/o Sharadha Ram, resident of Mohalla- Henry Bazar Chowk, P.S.- Motihari, District- East Champaran.



23. Jyoti Kumari, D/o Nand Kishore Prasad, resident of Village + P.O.- Rajpur, P.S.- Kesaria, District- East Champaran, Motihari.
24. Sima Kumari, D/o Devendra Prasad Singh, resident of Mohalla- Indra Nagar, Bankers Colony, Kacchi Pakkhi, Atardah, P.O.- Ramna, P.S.- Sadar, District- Muzaffarpur.
25. Kanchan Kumari, D/o Baidhya Nath Prasad Gupta, resident of Mohalla- Mit, Bairiya Road, Near Maiasthan, Brahampura, Muzaffarpur.
26. Anjali Kumari, D/o Anil Kumar Mishra, resident of Mohalla- Railway Quarter, Imli Road, G-278 H, P.S.- Kazi Mohammadpur, District- Muzaffarpur.
27. Soni Kumari, D/o Ram Nath Singh, resident of Mohalla- East from Sahi Market, New Zero Mile, Sheikhpur, Akharaghat, P.S.- Zero Mile, District- Muzaffarpur.
28. Supriya Thakur, D/o Laxman Thakur, resident of Dhewahan, P.O. + P.S.- Kanti, District- Muzaffarpur.
29. Kaushlendra Kumar Kaushal, Son of Sanjay Kumar Thakur, resident of Village + P.O.- Tyoth, P.S.- Benipatti, District- Madhubani.
30. Chandrika Ram, Son of Jugal Ram, resident of Village + P.O.- Kathauliya, P.S.- Manjhauliya, District- West Champaran.

.... Petitioner/s

Versus

1. The Chancellor of University, Raj Bhawan, Patna.
2. The University through its Registrar, B.R. Ambedkar University, Bihar.
3. The Vice Chancellor, B.R. Ambedkar University, Muzaffarpur.
4. The Registrar, B.R. Ambedkar University, Muzaffarpur.
5. The Director of Distance Education, B.R.A. University, Muzaffarpur.
6. Lal Kumar, Son of Late Bishwanath Singh, R/o Mohalla- Kuluha Paigambarpur, Road No. 4, P.S.- Kanti, District- Muzaffarpur, Administrative Officer-cum- Programme Officer, Distance Eudcation, B.R.A. University, Muzaffarpur.

.... Respondent/s

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Appearance :

(In CWJC No.1154 of 2017)

For the Petitioner/s : Mr. Sarvadeo Singh, Adv.

For the University : Mr. Rakesh Kr. Singh, Adv.



For the Hon'ble Chancellor : Mr. Rajendra kumar Giri, Adv.

(In CWJC No.2292 of 2017)

For the Petitioner/s : Mr. Ajay Behari Sinha, Adv.

Mr. Neeraj Raj, Adv.

For the University : Mr. Rakesh Kr. Singh, Adv.

For the Hon'ble Chancellor : Mr. Rajendra kumar Giri, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 16-11-2017

Though the pleadings have become voluminous, the issue involved is very short.

2. The petitioners seek a direction to the respondents for holding examination of Master of Philosophy (M.Phil.) course for the Sessions 2014-15 and 2015-16, which they are said to have completed in regular mode, conducted by the Directorate of Distance Education, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur (*in short 'the University'*).

3. There are two petitioners in C.W.J.C. No. 1154 of 2017 and thirty in C.W.J.C. No. 2292 of 2017, who claim that they have taken admission to M.Phil. course and they have completed the course in regular mode on face to face basis, for the Sessions 2014-15 and 2015-16. It is their case that pursuant to the advertisement and submission of their application forms, a



competitive test was held by the University and after having been declared successful, they were allowed admission to M.Phil. course. It is also the case of the petitioners that though the M.Phil. course was conducted under the aegis of the Directorate of Distance Education, the course was conducted in regular mode. In C.W.J.C. No. 2292 of 2017, there is statement in paragraph 7 that after admission the students started their studies in the University and the classes were going on regularly at *'weekend i.e. Saturday and Sunday of every week in the respective Post-Graduate departments of the University'*.

4. This is to be noted that under the University Grants Commission (Minimum Standards and Procedure for Awards of M.Phil./Ph.D. Degree), Regulations, 2009 and subsequent University Grants Commission (Minimum Standards and Procedure for Awards of M.Phil./Ph.D. Degrees) Regulations, 2016, the Universities and institutions have been prohibited from conducting M.Phil. and Ph.D. programmes through Distance Education Mode. It is in that background that a plea is being taken on behalf of the petitioners that though the courses were conducted by the Directorate of Distance Education of the University, the courses were conducted in regular mode, as has been indicated



above.

5. This is an admitted fact that when the University came out with the advertisement, offering admission to M.Phil. course, the Regulations for conducting such courses were not in place. As a matter of fact, the Regulations/Ordinance, framed by the University in this regard, did not have the assent of the Chancellor, Universities of Bihar, as contemplated under Section 39 (2) (ii) of the Bihar State Universities Act, 1976 (*in short 'the Act'*). The Chancellor had rather, through communication, dated 06.11.2015 (Annexure 9 to C.W.J.C. No. 2292 of 2017), had refused to approve the Regulations, so framed. This is admitted legal position that in the absence of Regulations, the courses could not have been conducted and Regulations shall have effect from the date assented to by the Chancellor.

6. Language of Section 39 (2) (ii) of the Act is clear and reads as follows:-

“39. Regulations, how made.—(2) (ii) Such a regulation shall have effect from the date on which it has been assented to by the Chancellor on being passed by the Senate with or without amendment, or from any date



fixed by the Chancellor.”

It is apparent from the reading of the said provision that a Regulation shall effect from the date on which it has been assented by the Chancellor on being passed by the Senate. In the absence of such assent by the Chancellor, the University could not have proceeded to offer admissions to the courses. As has been already noticed, the Chancellor subsequently refused to give assent.

7. It also transpires that subsequently, with effect from Session 2017-18, the Chancellor has given assent to the Regulations, on 21.09.2017, for the said M.Phil. course, but from the current Session 2017-18.

8. Learned counsel, appearing on behalf of the petitioners, in both the cases, have taken me to various documents, which have been brought on record to convince this Court that there was no illegality in the decision of the Academic Council, Syndicate and Senate to offer M.Phil. course in the University through Directorate of Distance Education and the said decision cannot be said to be in conflict with the University Grants Commission (Minimum Standards and Procedure for Awards of M.Phil./Ph.D. Degree), Regulations, 2009. It has also been



submitted that the University has given admission to nearly 968 students for the said M.Phil. course, on the basis of the advertisements in question and, therefore, future of these students shall be jeopardized, if they are not allowed to complete their M.Phil. course.

9. This being not in dispute that on the date of advertisement inviting applications, the Chancellor had not given assent to the Regulations, the admissions offered on that basis by the University, in my view, was wholly arbitrary, irresponsible and that smacks of *malafide* too. I am a bit worried about the University allowing admission of 968 students for M.Phil. course, even in the absence of Regulations in accordance with the provisions of the Act. The Chancellor has rightly given assent to the Regulations for the current session and onwards only, in view of the fact that earlier the Chancellor had refused to give assent to the Regulations.

10. There is another peculiar aspect of the present cases. The petitioners have not brought on record anything to show as to on which date they were admitted. It is their case that for the purpose of admission, individual students were made to pay a sum of Rs. 25,000/- each. In my view, the University had



wrongly given these petitioners and other similarly situated persons admission to M.Phil. course, since there was no Regulation for the said course in the eye of law.

11. In that view of the matter, no relief, as sought in the present writ applications, can be granted. The University is, however, directed to refund the amount of admission fee and course fee said to have been paid by these petitioners, on production of proof thereof, within a period of two (2) months from the date they make their claim before the University.

12. It has been submitted on behalf of the petitioners that the University has sent a proposal to the Chancellor, Universities of Bihar, to give assent to the transitory Regulations in order to regularize admissions of these petitioners and other similarly situated persons.

13. After having seen the materials on record and the fact that the Chancellor's office had to intervene, leading to initiation of departmental proceeding against the Director and the Administrative Officer of the Directorate of Distance Education, I do not think such admissions can be regularized. The Court would rather request the Chancellor to look into the matter and considering the conduct of various authorities including the then



Vice-Chancellor of the University, consider taking steps for initiating criminal action against them, if any such case is made out.

14. With the aforesaid observations, both these applications stand dismissed.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.11.2017
Transmission Date	N/A

