

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11786 of 2016

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Samarthya Kumar aged about 23 years Son of Sri Ram Singh
resident of Village- Dhanauta, Post- Rukundipur, Police Station-
Daraunda, District-Siwan.

.... Petitioner/s

Versus

1. The Chancellor of the Universities, Raj Bhawan, Bailey Road,
Patna.
2. The Registrar, Kameshwar Singh, Darbhanga Sanskrit
University, Kameshwar Nagar, Darbhanga, through its Registrar
having Office at Kameshwar Nagar, Darbhanga.
3. The Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit
University at Kameshwar Nagar, Darbhanga.
4. The Registrar, Kameshwar Singh, Darbhanga Sanskrit
University at Kameshwar Nagar, Darbhanga.
5. The Examination Controller, Kameshwar Singh Darbhanga
Sanskrit University at Kameshwar Nagar, Darbhanga
6. The Principal Baijnath Pandey, Arya Sanskrit Mahavidyalaya,
Siwan.
7. Director General (Vigilance), Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:Mr. Anand Kumar Ojha, Adv.
For the University	:Mr. Awadhesh Pd. Sinha, Adv.
For the Vigilance	:Mr. Ramakant Sharma, Sr. Adv.
For the Chancellor	:Mr. Rajendra kumar Giri, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 11-07-2017

The petitioner, in the present application filed under Article 226 of the Constitution of India, has sought for quashing of result, dated 10.09.2015, to the extent he has been declared to have failed Part-II Shashtri (Hons.) course examination, held by Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (*hereinafter referred to as the "University"*).

2. Facts of the case, which are not in dispute, are that the petitioner was admitted to Baijnath Pandey Arya Sanskrit Mahavidyalaya, Siwan (*hereinafter referred to as the "College"*), to pursue Up-Shashtri course, which he had passed in first division and, therefore, he took admission to three-years Shashtri course in the same college. He cleared Part-I Shashtri course and was, accordingly, given promotion to Part-II Shashtri course. This is also not in dispute that the petitioner's Part-II Shashtri course result was not declared, whereas, the results of co-students of Part-II Shashtri course were declared. Since the petitioner was neither declared 'fail' nor pass in Part-II Shashtri course examination, he was allowed to appear for Part-III course examination. The petitioner



has, however, been declared 'fail' in final examination, on the ground that he had failed in Part-II Shashtri course examination. This is also not in dispute that the petitioner has cleared Part-III Shashtri course examination.

3. On the other hand, it is the stand of the University that since the petitioner could not clear Part-II Shashtri course examination, in accordance with the Regulation, he could not have been allowed to appear in Part-III Shashtri course examination and he was wrongly allowed to appear in Part-III Shashtri course examination. It is, accordingly, the case of the University that since the petitioner had failed in Part-II Shashtri course examination, he has rightly been declared 'fail' in Shashtri examination.

4. Mr. Anand Kumar Ojha, learned Counsel, appearing on behalf of the petitioner, has submitted that at no point of time before the petitioner was declared to have failed in Shashtri examination, he had knowledge that he had failed in Part-II Shashtri course examination. According to him, had the petitioner been in know of the fact that he had failed Part-II Shashtri course examination, he would have cleared it before appearing for Part-III Shashtri course examination.

5. I have considered the pleadings on record and rival submissions advanced on behalf of the parties.



The plea taken on behalf of the University that the petitioner had failed in Part-II Shashtri course examination is based on Annexure-B to the counter affidavit filed on behalf of the University, which is the Tabulation Register, on perusal of which it appears that the petitioner had secured 61 marks in one of the papers as against 70 pass marks. However, in the result column, the result of the petitioner has been shown to be 'pending'. Evidently, thus, even in the said Tabulation Register, the petitioner was not declared 'fail' in Part-II Shashtri course examination, rather his result was kept pending for the reasons best known to the University. The stand of the University, in that background, is that since the petitioner had failed in Part-II Shashtri course examination and therefore he could not have appeared in Part-III Shashtri course examination, is unsustainable. It was because of the lapse on the part of the University that the petitioner was not informed whether he had passed Part-II Shashtri course examination or failed.

6. The action of the respondents, declaring the petitioner 'fail' on the said ground, is unsustainable as till date, the result of the petitioner, as regards Part-II Shashtri course examination, is being shown as 'pending'.

7. This writ application is, accordingly, allowed.

8. However, the Court cannot direct the



University for publication of petitioner's result after having noticed that the petitioner had secured 61 marks in one of the papers as against 70 pass marks in Part-II examination. What the Court has held that the petitioner's participation in Part-III Shashtri course examination could not be nullified by the University, in the facts and circumstances of this case, there being lapse on the part of the respondent-University in publication of result of Part-II examination. The University is, accordingly, directed, in the peculiar facts and circumstances of the case, to allow the petitioner to appear for Part-II Shashtri course examination, to be held by the University, and publish his result, taking into account his performance in Part-I and Part-III Shashtri course examinations, which he has already cleared.

9. I am of the view that it was because of total lapse on the part of the University that the petitioner has been made to suffer, as has been noticed above. His result for Part-II Shashtri course examination was unnecessarily kept pending and he was not declared even 'fail'. The petitioner, therefore, did not have any occasion to appear for Part-II Shashtri course examination before he appeared for Part-III Shashtri course examination.

10. In such circumstance, I find it to be a fit case for imposition of exemplary cost, which I quantify as



Rs. 20,000/- (Rs. Twenty Thousand). The said cost must be paid to the petitioner by the Registrar of the University within a period of one (1) month from today.

11. This application is, accordingly, allowed with the cost as indicated above.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22/07/17
Transmission Date	N/A

