

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15092 of 2016

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Shashi School of Business and Media, Surendra Nagar, Shiwala More, Neora, Khagaul, Patna P.S.- Bihta, District-Patna, running under Surendra Hemant Education & Social Welfare Society, through its Secretary Sri Shashi Bhushan Singh, S/o Surendra Prasad Singh, resident of Flat No.-117, D.D.A. Flat, Pocket-6, P.O. Dwarka, P.S.-Dwarka, New Delhi

... .. Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Human Resources Department, of Bihar, Patna.
3. The Vice-Chancellor, Aryabhatta Knowledge University, Chanakya National Law University Campus, Near Bus Stand, Mithapur, Patna
4. The Registrar, Aryabhata Knowledge University, Chanakya National Law University Campus, Near Bus Stand, Mithapur, Patna
5. The Inspector of Colleges, Aryabhatta Knowledge University, Patna

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Yogesh Chandra Verma, Sr. Adv. Mr. Manish Kumar Mr. Shaswat Sisodia
For the State	:	Mr. Prabhat Ranjan Singh, AC to AAG 15
For the University	:	Mr. Anand Kumar Ojha

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER

ORAL

Date : 13-11-2017

To name this litigation frivolous one, will be an understatement; it is, rather, mischievous.

2. The reliefs sought for on behalf of the petitioner has been stated in paragraph 1 of the writ application, which reads thus:-

“That this application is being filed for issuance of an appropriate writ/writs, direction/directions to the respondents



authority and to grant extension of affiliation for session 2014-15 till current session to Shashi School of Business and Media, S.M.C.H., Surendra Nagar, Shivala More, Neora, Khagaul, Patna from Aryabhatta Knowledge University, Patna for B.B.A. and B.C.A. for three year course along with action against the respondent no. 5 for inefficient and irrational activities against the petitioners institution from time to time and to take necessary action accordingly in accordance with law.”

3. The petitioner claims to be the Secretary of Surendra Hemant Education and Social Welfare Society, registered under the Societies Registration Act, 1860, and the present Shashi School of Business and Media is being claimed to be run for imparting Three-year B. B. A. and B. C. A. courses by the society on no profit, no loss basis.

4. On the one hand, the petitioner is seeking a direction to the Aryabhatta Knowledge University, Patna (hereinafter referred to as ‘the University’), for grant of extension of affiliation for the said session 2014-15 in the present writ application filed on 05.09.2016, I am tempted to re-produce, at the outset, the contents of the letter, dated 02.02.2015, addressed to the Registrar of the University, which has been brought on record by way of Annexure



C/9 to the supplementary counter affidavit filed on behalf of the University, which reads thus:-

“Acknowledging your above refused letter dated 28.01.2015 along with Two cheques amounting total Rs. 5,56,500/- towards refund of our deposited Endowment fund, Registration and Exam fund.

Please refer to the above subject matter. We have deposited Rs. 40,000/- (forty thousand only) vide DD No. AAA015517 and Rs. 25,000/- (twenty five thousand only) vide DD No. AAA015519 for affiliation & inspection cum processing fund of BBA.

We have also deposited Rs. 25,000/- (twenty five thousand) as affiliation fund vide DD No. AAA015510 dtd. 04.04.2014 and Rs. 40,000/- (forty thousand only) inspection cum processing fund of BCA, DD No. AAA015512.

As we have taken no objection from the AKU for affiliation, we request you to refund Rs. 65,000/- (sixty five thousand only) of BBA and Rs. 65,000/- (sixty five thousand only) of BCA to us so that we can get it.

With regards.”

(Emphasis is applied)

5. The facts, which have been stated and the documents which have been brought on record by way of supplementary



counter affidavit filed on behalf of the University, are not being disputed; rather, the same have been admitted. It is, thus, admitted that the College was allowed provisional affiliation for the session 2013-14 and for the purpose of grant of extension of affiliation for the session 2014-15, an inspection was made of the College on 09.06.2014. The inspection report pointed out certain deficiencies. Accordingly, a letter, bearing no. 1692, dated 14/16.07.2014, was issued by the University, asking the College to submit an affidavit whether it had removed the deficiencies. It was claimed on behalf of the College thereafter, that the deficiencies had been removed, which statement was found to be incorrect in a surprise inspection made by the University on 07.08.2014. The College, as has been noted above, through its letter, dated 02.02.2014, requested for refund of the affiliation cum inspection fee for the said courses for the sessions 2014-15. The University, responding to the said letter, dated 02.02.2014, informed the Secretary, Surendra Hemant Education and Social Welfare Society, disclosing that the School was free to apply to any other University for grant of affiliation and the University had no objection to that. This is also admitted that endowment fee and affiliation fee, deposited by the College, was returned. The inspection fee was refused to be returned since the decision not to extend the affiliation was taken after holding



inspection. This is evident from letters, dated 28.01.2015 and 03.03.2015, of the Registrar of the University to the Director of the School.

6. These facts, in my view, were crucial for determination of the petitioner's claim, as raised in the writ application. The petitioner has suppressed all the facts, as noted above, in the writ application, and it is, thus, manifest that the petitioner has not approached this Court with clean hands.

7. Mr. Yogesh Chandra Verma, learned Senior Counsel, appearing on behalf of the petitioner, has submitted that absence of any statement of facts in the pleadings can be termed to be suppression only if such facts can be said to be relevant for adjudication. According to him, the facts, as noticed above in the present order, through supplementary counter affidavit filed on behalf of the University, are not relevant. According to him, it was only because of the negative attitude of the University towards consideration of grant of extension of affiliation that the petitioner was, in disgust, made to apply for seeking no objection and refund of the affiliation fee etc. He has submitted that filing of application seeking no objection and refund of the amount by the University to the School will not amount to withdrawal of the request for extension of affiliation. According to him, it was incumbent upon



the University to have passed appropriate orders on the petitioner's application for affiliation, this way or that way. He also submits that the School was never informed about refusal of grant of extension of affiliation and according to him, the decision of the University ought to have been communicated to the School.

8. The submissions, on the face of it, are not, at all, tenable and are hereby rejected.

9. Mr. Verma has also submitted that the University ought to have considered the fate of the students admitted in the School from outside the State of Bihar, while considering the case of grant of extension of affiliation. According to him, equity demands issuance of direction to the University to grant extension of affiliation for the said academic session.

10. The conduct of the petitioner, as has been noted above, is reprehensible and condemnable in strongest words which I do and I am of the firm view that the said conduct deprives it of any equitable relief. The petitioner has not approached this Court with clean hands; rather, has attempted to mislead this Court.

11. It is primal and the foremost duty of any litigant approaching the Court in its equitable jurisdiction under Article 226 of the Constitution of India for relief, to present his case honestly and faithfully and state only correct facts. A party cannot



be permitted to present distorted facts or suppress material facts, more particularly, in writ proceedings, which are adjudicated upon on the basis of statements on affidavits. The Supreme Court, in the case of **Oswal Fats and Oil Limited v. Additional Commission (Administration), Bareilly Division, Bareilly and Others**, reported in **(2010) 4 SCC 728**, held, in paragraph 20, as follow:-

“**20.** It is settled law that a person who approaches the Court for grant of relief, equitable or otherwise, is under a solemn obligation to candidly disclose all the material/important facts which have bearing on the adjudication of the issues raised in the case. In other words, he owes a duty to the court to bring out all the facts and refrain from concealing/suppressing any material fact within his knowledge or which he could have known by exercising diligence expected of a person of ordinary prudence. If he is found guilty of concealment of material facts or making an attempt to pollute the pure stream of justice, the court not only has the right but a duty to deny relief to such person.”

12. Another decision of the Supreme Court, in the case of **A. Shanmugam v. Ariya Kshatriya Rajakula Vamsathu Madalaya Nandhavana Paripalanai Sangam represented by its President and Others**, reported in **(2012) 6 SCC 430**, is apposite



in the background of the conduct of the petitioner as noted above,
paragraph 43 of which reads thus:-

“**43.** On the facts of the present case,
following principles emerge:

43.1. It is the bounden duty of the Court to
uphold the truth and do justice.

43.2. Every litigant is expected to state truth
before the law court whether it is pleadings, affidavits
or evidence. Dishonest and unscrupulous litigants
have no place in law courts.

43.3. The ultimate object of the judicial
proceedings is to discern the truth and do justice. It is
imperative that pleadings and all other presentations
before the court should be truthful.

43.4. Once the court discovers falsehood,
concealment, distortion, obstruction or confusion in
pleadings and documents, the court should in
addition to full restitution impose appropriate costs.
The court must ensure that there is no incentive for
wrong doer in the temple of justice. Truth is the
foundation of justice and it has to be the common
endeavour of all to uphold the truth and no one
should be permitted to pollute the stream of justice.

43.5. It is the bounden obligation of the
Court to neutralize any unjust and/or undeserved
benefit or advantage obtained by abusing the judicial
process.

43.6. Watchman, caretaker or a servant
employed to look after the property can never acquire



interest in the property irrespective of his long possession. The watchman, caretaker or a servant is under an obligation to hand over the possession forthwith on demand. According to the principles of justice, equity and good conscience, Courts are not justified in protecting the possession of a watchman, caretaker or servant who was only allowed to live into the premises to look after the same.

43.7. The watchman, caretaker or agent holds the property of the principal only on behalf the principal. He acquires no right or interest whatsoever in such property irrespective of his long stay or possession.

43.8. The protection of the Court can be granted or extended to the person who has valid subsisting rent agreement, lease agreement or licence agreement in his favour.”

13. Similar view has been taken by a Full Bench of this Court reported in **2013 (1) PLJR 964 (Ram Sevak Yadav and Another v. The State of Bihar and Others)**.

14. Mr. Anand Kumar Ojha, learned Counsel appearing on behalf of the University, has rightly submitted that the petitioner, despite having full knowledge, suppressed such facts, which were material for considering the claim, as made in the writ application.



15. In my view, in order to curb uncalled for, frivolous, mischievous litigations, the Court has a duty to pass appropriate orders, to discourage such litigants, including by way of imposing costs befitting their conduct.

16. This application is accordingly dismissed with a cost of Rs. 50,000/-, to be paid by the Surendra Hemant Education and Social Welfare Society, Patna, to the Aryabhata Knowledge University, Patna, within three months from today.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	15-11-2017
Transmission Date	N/A

