

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10280 of 2017

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Lalan Prasad Mission College, Dariyapur, Tekari, Gaya through its Principal
Lalan Prasad Son of Late Ramcharitar Prasad Resident of Village-Dariyapur,
P.O.-Fatehpur, Nepa, P.S.-Tekari, District-Gaya (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Higher Education, Patna.
3. The Deputy secretary, Education Department, Government of Bihar, Patna.
4. The Magadh University, Bodh Gaya Through its Registrar.
5. The Vice-Chancellor, Magadh University, Bodh-Gaya
6. The Registrar, Magadh University, Bodh Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh
For the Respondent/s	:	Mr. PRABHAKAR JHA-GP-27
For University	:	Mr. Shivendra Kishore, Sr. Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 12-10-2017 Heard learned counsel for the parties.

2. The petitioner is aggrieved by an order, dated 17.03.2017, passed by the Deputy Secretary, Education Department, Government of Bihar, whereby an application for approval of affiliation under Section 21 (2) (d) of the Bihar State Universities Act, 1976 (in short ‘Act’) has been refused by the State Government.

3. The Magadh University, Bodh Gaya (in short ‘University’) had recommended for approval of affiliation to the College in question for conducting courses up to Graduation level, which has been turned down by the impugned order.



4. Learned counsel appearing on behalf of the petitioner, assailing the impugned order, has submitted that it is cryptic and does not contain the reasons for refusal to approve affiliation. He submits that on the vague ground that the College does not fulfill the prescribed standard under the Act, the recommendation for approval has been turned down by the State Government. He has relied on an order of this Court, dated 15.09.2017, passed in CWJC No. 12003 of 2017, to contend that in similar circumstance, this Court has interfered with and order order refusing approval of affiliation under Section 21 (2) (d) of the Act.

5. Mr. Shivendra Kishore, learned Senior counsel appearing on behalf of the University, on the other hand, has submitted that on perusal of the impugned order, it cannot be said that no reason at all has been assigned for refusal of approval of affiliation. He has drawn my attention to a counter affidavit filed on behalf of the State of Bihar, whereby statements have been made referring to the deficiencies, which the College is suffering from, because of which the State of Bihar decided to refuse approval of affiliation.

6. Learned counsel appearing on behalf of the petitioner, in reply has submitted that an administrative order has to be



read as it is and it cannot be supplemented by way of affidavit.

7. I do not intend to go into such aspect of the matter, in the present facts and circumstances of the case, for a significant reasons. In paragraph 11 of the counter affidavit, it has been stated that Article 3(f) of the ‘Statutes Relating Admission And Exclusion of Colleges Other Than Those Managed And Maintained By the University (approved by the Chancellor vide letter dated 19.04.1986)’, provides that an institution must own and possess at least 10 acres of land for the College buildings, hostels, quarters and play grounds, if situated in rural area or 5 acres in urban area and it is not in more than two blocks. Proviso to Article 3(1) (f) states that in case the College building is not ready, the institution should have a “separate building-Reserve Fund”, which is deemed to be sufficient by the Syndicate for putting up suitable buildings within such time as may be fixed by the Syndicate; and that the institution has at its disposal a building, to be approved by the Syndicate, for holding the classes regularly and efficiently till the construction of its own buildings is complete.

8. This is not in dispute that the petitioner-College does not fulfill the requirement of Article 3(1) (f) of the Statutes.

9. Another deficiency that the petitioner has not deposited



the reserve fund as has been pointed out. A stand has been taken that the College has deposited an amount of Rs. 5.50 lacs for the said purpose.

10. Though I am *prima facie*, satisfied that the impugned order is non-speaking but instead of quashing the said order, in view of the admitted fact as noted above, I allow the petitioner to first remove the deficiencies as have been pointed out and inform the University that the deficiencies have been removed. The University, thereafter, on the basis of due inspection/verification of the claim of the petitioner/College that the deficiencies have been removed, may make a recommendation within a period of two months after the petitioner informs the University about removal of the deficiencies.

11. Once a recommendation is made to the State Government for grant of approval of affiliation, the State Government shall consider the case of the petitioner/College afresh and decide it within a period of one month thereafter. If the Government is not inclined to grant approval this time, the State Government will have to record specific reasons point-wise for such refusal to grant approval under Section 21(2) (d) of the Act. The State Government, in that circumstance, will be



required to refer to the statutory provisions which prescribe the concerned requirement, while forming any opinion that the College suffers from any deficiencies, in the order itself.

12. This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

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