

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16166 of 2016

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Anuj Kumar Singh, Son of Shri Ganesh Prasad Singh, resident of Ashok Nagar, P.S.-Rampur, District-Gaya, presently the Secretary, Kumar Educational B.Ed. College, Dubhal, Gaya.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Bihar, Patna.
2. Bihar School Examination Board, Patna, through its Secretary.
3. Magadh University, Bodh Gaya, through its Registrar.
4. Vice-Chancellor, Magadh University, Bodh Gaya.
5. Registrar, Magadh University, Bodh Gaya.
6. National Council for Teachers Education, Eastern Regional Committee, Bhubaneshwar, through its Regional Director.

.... Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Abhinav Srivastava, Adv.
For the State	: Mr. Narendra Kumar, AC to GP-20
For the BSEB	: Mrs. Namrta Mishra, Adv.
For the M.U.	: Mr. Ritesh Kumar, Adv.
For the NCTE	: Mr. Sunil Kr. Singh, Adv.

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

ORAL JUDGMENT & ORDER

Date: 28-07-2017



The petitioner is a Teachers' Educational Institution (*in short* 'TEI'), in the name of Kumar Educational B.Ed. College, Dubhal, Gaya.

2. This application was filed on 22.09.2016, seeking direction to grant No Objection Certificate (*in short* 'NOC') in favour of the TEI for the purpose of obtaining recognition by the National Council for Teachers Education (*in short* 'NCTE'). The application for NOC was made on 09.05.2016. The TEI was subsequently asked by the Magadh University (*in short* 'University') to deposit the processing fee of Rs. 1,05,000/-, which it deposited on 22.05.2016. It appears that simultaneously, the TEI had applied for grant of recognition by the NCTE.

3. A counter affidavit has been filed on behalf of the University, stating therein that the University had decided not to grant NOC and the amount, so deposited by the petitioner as processing fee, has been returned to him, through a cheque, issued on 30.11.2016. The said cheque was sent to the TEI on 13.02.2017. It is in this background that I.A. No. 4451 of 2017 has been filed, seeking amendment in this writ petition to question the decision of the University of refusing the NOC to the TIE.

4. In the meanwhile, the NCTE has



communicated refusal of request for grant of recognition by an order, dated 02.05.2017, which has been brought on record by way of Annexure-10 to the said I.A. No. 4451 of 2017. Refusal to consider the application is on the sole ground that the TEI could not submit NOC for B.Ed. course, issued from the concerned affiliating body.

5. I.A. No. 4451 of 2017, seeking amendment, is allowed and the petitioner is permitted to question the decision of the University to refuse issuance of NOC.

6. Learned counsel, appearing on behalf of the petitioner has submitted that except for return of the amount, through cheque, there is no formal refusal of request made by the TEI for issuance of NOC. He has submitted that it appears that there is no order available on record, issued by the competent authority, refusing issuance of NOC.

7. Learned counsel, appearing on behalf of the University, referring to the counter affidavit, has drawn my attention to Annexure-A, which contains the instructions given by the Governor's Secretariat in a meeting of Vice-Chancellors, held on 14.05.2016, with special mention to Clause 4 thereof.

8. On perusal of Clause 4, I find that the same



relates to grant of affiliation. Grant of affiliation and issuance of NOC, for establishing a B.Ed. College, are to different things altogether. In any view of the matter, since the application was made on 19.05.2016, the University could have communicated to the petitioner within a reasonable time, its decision to grant or refuse NOC.

9. Learned counsel, appearing on behalf of the petitioner, appears to be right in his submission that there is complete non-application of mind on the part of the University authorities while considering the petitioner's case for issuance of NOC, which has caused serious prejudice to the management of the TEI.

10. The Court deprecates the manner in which the University has taken the decision to refuse the petitioner's request for issuance of NOC. There is no document, which has been shown to this Court, in support of the decision of the University. Just by an act of returning the processing fee, through cheque, the University claims that it has rejected the request for issuance of NOC.

11. This is nothing less than a high handed arbitrary approach on the part of the University.

12. This application is, accordingly, allowed. Since there is no decision available on record to demonstrate



that the petitioner’s application for NOC has been refused, I declare that if the same has been refused, in any manner whatsoever, it is completely illegal.

13. The University is directed to consider the case of the petitioner afresh for issuance of NOC and take a final decision in this regard within a period of one month from the date of receipt/production of a copy of this order.

14. Considering the manner in which the University has dealt with the petitioner’s case for issuance of NOC, I consider it to be a fit to impose exemplary cost while allowing the writ application. I, accordingly, impose a cost of Rs. 50,000/- to be paid by the University to the college, in question, within a period of one month from today.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04/08/2017
Transmission Date	N/A

