

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17675 of 2017

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Chaman Nishat Bano

.... Petitioner/s

Versus

B. R. A. Bihar University Through Its Registrar, Muzaffarpur & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Patanjali Rishi

For the Union : Mr. Mritunjay Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 07-12-2017

The petitioner seeks a direction to the respondents to declare his final result of B.Sc. Zoology (Hons.).

The admitted case of the petitioner is that she took admission in the said course of Samta College, Jandaha, Vaishali, an affiliated college of B.R.A. Bihar University, Muzaffarpur. She appeared in the 1st year examination of three years course. She failed in two papers namely, Chemistry and Botany. However, she was given promotion to B.Sc. Zoology (Hons.) 2nd part. In the second year, she did not apply for taking Botany paper in next examination, in which she had failed and appeared in the Chemistry paper only, in which she is said to have declared 'pass'.

In the third year also, she did not appear in Botany paper though, she appeared in other papers in the year 2012. Since the final result of the petitioner was not announced, on enquiry, she learnt that



it was case of a non passing of Botany paper of B.Sc. Zoology (Hons.). It is, further, her case that she took the said examination of Botany paper, held by the University in 2015 but despite the fact that the petitioner was allowed to appear, her result is not being published. It is the case of the petitioner that she cleared Botany paper on the basis of examination held in the year 2015.

Learned counsel appearing on behalf of the University, on the other hand, opposing the relief sought has relied on the examination Regulations of the University Clause 7.1 of which reads thus:-

“There shall be University, examination at the end of the first, the second and the third years of study to be known respectively as the B.A. (General/Honours) Part I, Part II and Part III examination. No student shall be admitted to the B.A. (General) or B.A. (Honours) Part II class unless he has passed the B.A. (General) or B.A. (Honours) Part I examination and to the Part III class unless he has passed the Part II examination.

Provided that if a student fails in or fails to appears at, not more than two subjects at the B.A. (General/Honours) Part I/II examination he shall be promoted to the next higher class but he shall not be eligible for admission to the B.A. (General) or B.A. (Honours) Part III class unless he has passed the B.A. (General) or B.A. (Honours) Part I examination in the subject/subjects concerned.

Provided further that this facility for appearing in such carry over subject/subjects shall be available to a student at not more than three consecutive examinations.”



A close reading of the said provision makes it abundantly clear that no student can be allowed admission to B.A. (General) or B.A. (Honours) Part II class unless he has passed the B.A. (General) or B.A. (Honours) Part I examination and to the Part III unless he has passed the Part II examination.

It further provides that if a student fails in, or fails to appear at, not more than two subjects at the B.A. (General/Honours) Part I/II examination he shall be promoted to the next higher class but he shall not be eligible for admission to the B.A. (General) or B.A. (Honours) Part III class unless he has passed the B.A. (General) or B.A. (Honours) Part I examination in the subject/subjects concerned.

The second proviso to regulations 7.1. provides that the facility of appearing in such carry over subject/subjects shall be available to a student at not more than three consecutive examinations. Taking the example of the Botany paper, admittedly, the petitioner had failed in 2010 and she did not take that paper before 2015.

In my view, she was wrongly given promotion to Part III of the course and she was wrongly allowed to appear for the examination in breach of clear provision under Regulation 7.1.

Learned counsel appearing on behalf of the petitioner



has relied on a Division Bench decision of this Court in case of Poonam Kumari Vs. L.N.Mithla University to submit that since the petitioner was allowed to appear rightly or wrongly, the respondents have now a duty to publish the result.

I have examined the said Division Bench decision, the facts of the present case are entirely different. This is an admitted fact that the petitioner was knowing at all point of time that she had not cleared Botany paper of 1st year. She could not have expected publication of her result after having appeared for the final year examination 2012, since she knew well that she had not passed the Botany paper.

In my view, a direction for publication of result cannot be made in contravention of the regulations. This application, in my view, has no merit and is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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AFR/NAFR	NAFR
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