

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11628 of 2017

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1. Arcade Business College, Khagaul Road, Patna affiliated to Magadh University represented through its Director, Ashish Kumar @ Aashish Aadarsh, son of Late Sitaram Motani, Resident of Flat No.- 201, Kanika Maihar Apartments, P.S.- Kadam Kuan, District- Patna.
 2. Ashish Kumar @ Aashish Aadarsh, son of Late Sitaram Motani, Director, Arcade Business College, Arya Kumar Road, Rajendra Nagar, Patna, Resident of 201, Kanika Maihar Apartments, P.S.- Kadam Kuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
4. The Joint Secretary, Department of Education, Government of Bihar, Patna.
5. The Vice- Chancellor, Magadh University, Bodh Gaya, Bihar.
6. The Registrar, Magadh University, Bodh Gaya, Bihar.
7. The Examination Controller, Magadh University, Bodh Gaya, Bihar.
8. The Inspector of Colleges, Magadh University, Bodh Gaya, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Prasad Singh, Sr. Advocate with Mr. Ajit Kumar Mr. Krishna Chandra
For the University	:	Mr. Ritesh Kumar
For the Respondent/s	:	Mr. Jitendra Kumar Ray - Sc13

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 18-05-2018

Heard learned counsel for the parties.

2. In substance, notification dated 08.09.2017, brought on record by way of Annexure-I/12, passed under the orders of the Vice Chancellor, Magadh University, Bodh Gaya, whereby the affiliation granted to the petitioning institution has been cancelled is being assailed in the present proceeding. The said notification of Magadh



University dated 08.09.2017, relates to two institutions, namely, Arcade Business College, Arya Kumar Road, Rajendra Nagar, Patna, and Arcade Business College, Khagaul Road, Patna.

3. The notification dated 08.09.2017, has been quashed by Co-ordinate Bench of this Court in case of Arcade Business College, Arya Kumar Road, Rajendra Nagar, Patna, by order dated 04.05.2018, in CWJC No. 11113 of 2017. For the same reasons, as discussed in the order, dated 04.05.2018, of non-application of mind, and the order being non-speaking, the impugned order cannot be sustained in respect of the present petitioner i.e. Arcade Business College, Khagaul Road, Patna.

4. Accordingly, the notification dated 08.09.2017, is set aside, following the decision rendered by this Court in case of Arcade Business College, Arya Kumar Road, Rajendra Nagar, Patna.

5. After having quashed the notification, this Court by the aforesaid order, dated 04.05.2018, following order has been passed:

“Adverting to the issue of intake, the Court has genuine difficulty in determining the issue raised in the writ application. Intake is always referable to infrastructural and other facilities for the purpose of imparting qualities education. Unfortunately, during the course of hearing, neither the petitioner nor the respondent has brought to the notice of the Court any statutory norms prescribing minimum infrastructure for determination of intake and in the absence of statutory standard prescribing infrastructure



approving or disapproving the action of the University or the State is difficult. The Court is of the considered view that intake is always referable to infrastructure and other teaching facilities and, therefore, the State Govt. and the University is required to first work out the minimum infrastructure for the purpose of determining the intake capacity in any institution including the petitioner's institution otherwise it would be unguided and arbitrarily power exercised by either the State or the University in the matter of determining intake and in that situation for the same infrastructure and teaching facilities, institution may get different intake order as there is no objection criterion. In the aforesaid background of the fact, the office of the Hon'ble Chancellor, the University and the State Govt. is required to address the issue of prescribing minimum infrastructural and other teaching facilities for determination of intake of the institution imparting instruction in BBA, BCA course. Since Chancellor is not party in this case but Chancellor is the Chancellor of the university and this issue is not only confined to this situation but apply to all institution and such prescribing standard for all institution regarding instruction, the Hon'ble Chancellor is required to address this issue so that in future, litigation may not crop up on the ground of arbitrariness in the matter of grant of intake."

6. It has been pointed out by the learned counsel,



appearing on behalf of the Magadh University, that the University has been bifurcated, and Patliputra University, Patna, has been carved out, which has territorial jurisdiction under which the present College is situated. He contends that whatever action is required to be taken in the light of the order, dated 04.05.2018, the same has to be taken by Patliputra University now.

7. This application is disposed of in the same terms with the only observation that in place of Magadh Universtiy, Bodh Gaya, now Patliputra University, Patna, will have to proceed accordingly.

8. Let a copy of this order be communicated to the Vice Chancellor, Patliputra University, Patna, through the Registrar, Magadh University, Bodh Gaya, forthwith.

(Chakradhari Sharan Singh, J)

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