

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.145 of 2018

Arising out of

C.W.J.C. No. 11113 of 2017

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1. Arcade Business College, Arya Kumar Road, Rajendra Nagar, 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 Apartment, 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 Apartment, P.S. - Kadam Kuan, District - Patna.

... .. Appellant/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 Director, 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 Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate
For the Respondent/s : Mr. Shivendra Kishore, Sr. Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-02-2018

Having heard learned counsel for the parties, we find that on 24.01.2018 C.W.J.C. No. 11113 of 2017 was dismissed by the learned Writ Court only on account of the fact that during the pendency of the writ petition, the recognition of



petitioner's institute was withdrawn by the University vide order dated 08.09.2017. Now, this gives a fresh cause of action. Much has changed after the original writ application was filed and now in view of the subsequent withdrawal of recognition, a fresh cause of action accrues and, therefore, the writ petition was disposed of granting liberty to the petitioner to challenge the subsequent action and the withdrawal order dated 08.09.2017.

However, with due regard and respect to the learned Writ Court, we find that much prior to passing of the order on 24.01.2018, on 18.10.2017 the Writ Court allowed I.A. No. 6737 of 2017, permitted amendment of the writ petition and also granted liberty to the petitioner to challenge the order of withdrawal dated 08.09.2017 and the record shows that after I.A. No. 6737 of 2017 was allowed on 18.10.2017, the amendment was physically incorporated in the writ petition.

That being so, once amendment was allowed on 18.10.2017 and the petitioner was permitted to challenge the subsequent action of the University in withdrawing the recognition/affiliation on 08.09.2017, dismissal of the writ petition on 24.01.2018 for the grounds indicated therein, in our considered view, was not tenable in law. The amendment having



been allowed, the Writ Court should have gone into the merits of the order of withdrawal dated 08.09.2017 and decided it in accordance with law.

Accordingly, allowing this appeal, we quash the order dated 24.01.2018, restore C.W.J.C. No. 11113 of 2017 to its original file and direct for its placement before the appropriate Bench for proceeding in accordance with law.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

P.K.P./-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	19.02.2018
Transmission Date	

