

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1748 of 2017

In

Civil Writ Jurisdiction Case No.2495 of 2017

Amrita Anjali, D/o Uma Shankar Prasad, Resident of Brahampura, P.O.
-M.I.T. , P.S. -Brahampura, District- Muzaffarpur.

... .. Appellant

Versus

1. The State of Bihar through the Principal Secretary, Science and Technology, Government of Bihar.
2. The Chairman, State Board of Technical Education, Bihar 4th Floor, Technology Bhawan, Vishweshariya Bhawan campus, Bailey Road, Patna-800015.
3. The Vice Chairman, State Board of Technical Education, Bihar, 4th Floor, Technology Bhawan, Vishweshariya Bhawan campus, Bailey Road, Patna-800015.
4. The Controller of Examination, State Board of Technical Education, Bihar, 4th Floor, Technology Bhawan, Vishweshariya Bhawan campus, Bailey Road, Patna-800015.
5. The Principal, Government Polytechnic College, Gopalganj.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Bipin Bihari Singh, Adv.

For the Respondent/s : Mr. Manish Kumar, AC to AAG-6

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 17-12-2018

This intra-court appeal arises from a judgment and order of the learned Single Judge passed in CWJC No.2495 of 2017 whereby the writ petition is dismissed.

The limited prayer of the appellant-petitioner in the writ petition was to permit her to clear the 3rd Semester examination for the course Diploma in Computer Science and Engineering conducted by the State Board of Technical Education, Bihar, Patna.

It is not in dispute that of the six semesters, the



appellant-petitioner has cleared 5 except the third semester. It is also not in dispute that despite 6 attempts afforded to the appellant-petitioner, she could not clear it and thus it is following the regulations in force that she was not permitted to take any further attempt by the respondent-Board. The attempt before the learned Single Judge also did not bear result and the writ petition was dismissed and that is why she is before this Court.

We have heard Mr. Bipin Bihari Singh, learned counsel appearing for the appellant-petitioner and Mr. Manish Kumar, learned Assisting Counsel to Additional Advocate General No.6 who also appears for the State Board of Technical Education. Mr. Manish Kumar very fairly while drawing our attention to the regulation of the Board guiding the examination in question which allows six attempts to every examinee to clear an unsuccessful semester, also draws our attention to the revised Rules which came into force on 19.09.2018 issued by the Government of Bihar in its Department of Science and Technology, State Board of Technical Education, Bihar, Patna more particularly to Rule 13 which prescribes the limitation for compartmental examination and for the purpose herein Rule 13.1.a would be relevant for the issue canvassed by the appellant-petitioner and runs under :

“13.1.
13.1.a. No student shall be allowed to appear in Ist & IInd Semester Examination for more than 2 academic sessions after the semester in which he



has completed the regular course of study. Such student who could not pass Ist and IInd Semester in above specified 6 consecutive attempts shall not be eligible for readmission and shall be awarded NFT* (Not Fit for Technical Education). However, Board reserves the right to grant a chance to any applicant, on case to case basis on humanitarian ground.”

(Emphasis is ours)

The Rule while drawing limitation of six consecutive attempts for an examinee to clear any semester, reserves a discretionary right in the Board to allow an applicant another chance on case to case basis, on humanitarian grounds.

We are informed that the appellant-writ petitioner is differently abled and by her effort she has managed to clear all semesters except the 3rd Semester. She seeks the permission of the Board through the process of this Court for allowing her to appear for a last chance to clear her 3rd Semester.

In view of the revised guidelines which allows the Board to exercise discretion and considering that the appellant-petitioner is differently abled we would direct the State Board of Technical Education, Bihar, Patna to consider her grievance exercising such discretionary power that is vested in them under Rule 13.1.a which allows them to give an extra chance to an applicant on humanitarian grounds. We hope and trust that the discretionary power would be exercised by the Board in the extraordinary circumstances set forth above and which perhaps is an appropriate situation for which the Rule has been framed.



Let the appellant-petitioner apply through her college i.e. Government Polytechnic College, Gopalganj for appearing in the 3rd Semester in the next examination whenever it is to be held. Let the respondent no.5 the Principal, Government Polytechnic College, Gopalganj forward her application accordingly for consideration by the respondent nos.2 to 4 so as to permit her to appear in next examination as and when it would held.

The order of learned Single Judge passed in CWJC No.2495 of 2017 stands modified to the extent above.

The appeal is allowed with the direction above.

(Jyoti Saran, J)

(Rajeev Ranjan Prasad, J)

Skpathak/
Anjula

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	05-01-2019
Transmission Date	NA

