

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3034 of 2018

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1. Swami Raghvendra Charya Tridandi Ayurved College And Hospital through its Principal, Dr. Bashisht Pandey, S/o Late Ram Parvesh Pandey, resident of Village- Matha, P.S.- Gurari, District- Rohtas at Present Principal of the College.
 2. Annu Khan, S/o Shamshey Alam, resident of Village- Bathauli, P.S.- Tiltrath, District- Begusarai.
 3. Indradeo Prasad, S/o Dasrath Prasad, resident of Village- Krishna Vihar Colony, P.S.- Sitarampur, District- Bundwan.
 4. Angad Sharma, S/o Jag Narayan Sharma, resident of Village- Maurya Colony, P.S.- Sasaram, District- Rohtas.
 5. Akhilesh Kumar, S/o Kailash Yadav, resident of Village- Raman Bigha, P.S.- Kaswa, District- Aurangabad.

.... Petitioner/s

Versus

1. Hon'ble the Chancellor of the Universities, Bihar.
2. Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur, through its Registrar.
3. The Vice- Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
4. The State of Bihar through Principal Secretary, Health and Family Welfare Department, Govt. of Bihar, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 4029 of 2018

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1. Naveen Kumar Rai, son of Shivji Rai, Resident of Village- Lachhanauta, P.O.- Dhamaura, Police Station- Sathi, District- West Champaran.



2. Munna Kumar, son of Sitaram Pandit, Resident of Village- Sevraha Ward No. 3, P.O.- Chandrahiya, Police Station- Harsiddhi, District- East Champaran.
3. Dinesh Kumar, son of Ram Dayal Prasad, Resident of Village- Majhauria, P.O.- Majhauria, Police Station- Pakridayal, District- Motihari, East Champaran.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Ayurveda, Yoga and Naturopathy Unani Siddha and Homeopathy (Ayush), Ayush Bhawan, B-Block, G.P.O. Complex, INA, New Delhi- 110023.
2. That Secretary, Central Council of Indian Medicines Institutional Area, Janakpuri, New Delhi- 58.
3. The Chancellor of the Universities through its Secretary, Raj Bhawan, Bailey Road, Patna.
4. The Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
5. The Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
6. The Controller of Examination, B.R. Ambedkar Bihar University, Muzaffarpur.
7. The Principal, S.M.S.J. Ayurved College and Hospital, Chhapra (Bihar).
8. The Registrar, Bihar State Board of Ayurved Medicine, Patna.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 2904 of 2018

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1. Nitishewar Ayurved Medical College and Hospital, Babanbigha Kanhauli, Muzaffarpur through its Principal, Dr. Ganesh Prasad S/o Late Harihar Prasad, resident of Village - Bhavnauli, P.S. - Govindganj, District - East Champaran (Bettiah).
2. Dr. Kashyap Santosh Kumar S/o Gajendra Prasad, resident of Village - Juran Chapra, P.S. Brahampur, District - Muzaffarpur.
3. Dr. Radha Babu Singh S/o Ram Shobhit Singh resident of Village - Chakbagi Mulah, P.S. - Mahua, District - Vaishali.



.... Petitioner/s

Versus

1. Hon'ble the Chancellor of the Universities, Bihar.
2. Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur through its Registrar.
3. The Examination Controller, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
4. The State of Bihar through Principal Secretary, Department of Health.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 3272 of 2018

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1. Nitishewar Ayurved Medical College and Hospital, Bawan Bhigha Kanhauli, Muzaffarpur, through its Principal. Dr. Ganesh Prasad, S/o Late Harihar Prasad, resident of Village- Bhavnauli, P.S.- Govindganj, District- East Champaran, Bettiha.
2. Sumit Kumar Chaudhary, S/o Ajay Kumar Chaudhary, resident of Village- Jarpur, P.S.- Tajpur, District- Samastipur.
3. Pappu Kumar, Son of Raj Ballav Prasad Yadav, Resident of Village- Bashghat Basuria, P.S.- Mohunidpur, District- Gopalganj.
4. Mahesh Sah, Son of Raghunat Sah, resident of Village- Mahua Vaishali, P.S.- Mahuna, District- Vaishali.
5. Md. Manzar Alam, Son of Md. Zamaluddin, Resident of Village- Balman, P.S.- Basmalia, District- Araria.

.... Petitioner/s

Versus

1. Hon'ble the Chancellor of the Universities, Bihar.
2. Bhim Rao Ambedkar Bihar University, Muzaffarpur through its Registrar.



- 3. The Vice-Chancellor, Bhim Rao Ambedkar Bihar University, Muzaffarpur.
- 4. The Examination Controller, Bhim Rao Ambedkar Bihar University, Muzaffarpur.
- 5. The State of Bihar through Principal Secretary, Health and Family Welfare Department, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.3034 of 2018)

- For the Petitioner/s : Mr. Pramod Kumar Singh
- For C.C.I. : Mr. S.N. Pathak, Advocate
- For the Respondent/s : Mr. CHITRANJAN SINHA- PAAG2
- For the State : Mr. Shashi Shekhar Kumar Prasad, AC to PAAG-2
- For Bihar University : Mr. D. Mukherjee, Sr. Advocate
Mr. Arup Kumar Chongdar, Advocate
Mr. Md. Nazir Ansari, Advocate

(In CWJC No.4029 of 2018)

- For the Petitioner/s : Mr. Rajib Ranjan Jha, Advocate
- For C.C.I. : Mr. S.N. Pathak, Advocate
- For UOI : Mrs. Kanak Verma, C.G.C.
- For the Chancellor : Mr. Rajendra Kumar Giri, Advocate
- For the State : Mr. Shashi Shekhar Kumar Prasad, AC to PAAG-2
- For Bihar University : Mr. D. Mukherjee, Sr. Advocate
Mr. Arup Kumar Chongdar, Advocate
Mr. Md. Nazir Ansari, Advocate

(In CWJC No.2904 of 2018)

- For the Petitioner/s : Mr. Prabhat Kumar Singh
- For the Respondent/s : Mr. BINOD KR. YADAV -SC18
- For the State : Ajay Behari Sinha, Advocate
- For C.C.I. : Mr. S.N. Pathak, Advocate



For Bihar University : Mr. D. Mukherjee, Sr. Advocate
Mr. Arup Kumar Chongdar, Advocate
Mr. Md. Nazir Ansari, Advocate

(In CWJC No.3272 of 2018)

For the Petitioner/s : Mr. Prabhat Kumar Singh
For the Respondent/s : Mr. A.B. SINHA- GA8
For C.C.I. : Mr. S.N. Pathak, Advocate
For Bihar University : Mr. D. Mukherjee, Sr. Advocate
Mr. Arup Kumar Chongdar, Advocate
Mr. Md. Nazir Ansari, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 14-05-2018

These writ applications have been filed by the petitioners seeking direction to Baba Saheb Bhim Rao Ambedkar University, Muzaffarpur to hold and conduct examination of the students of respective institutions, who are said to have completed their respective academic sessions of Graduate//Post Graduate Course in Ayurvedic medicine. It has been asserted that the sessions had commenced way back in the year 2013-14/2012-13.

2. There is a fact which is not in dispute. There is no Ordinance and Regulations in place, framed in accordance with the provisions as contemplated under Sections 38 and 39 of the Bihar State Universities Act, 1976 for conducting the courses in question. Conduct of the courses and holding of examinations thereof, in the



absence of the ordinance and regulations is difficult to be conceived. It transpires that the University had sent the draft ordinance and regulations of the said courses to the office of the Chancellor for approval. It also appears that the draft ordinance and regulations have not been approved by the Chancellor rather the same have been returned with certain suggestions and for certain corrections to the University. In the background of the above noted admitted facts, no direction for holding examination can be issued in the present preceding under Article 226 of the Constitution of India.

3. Mr. Prabhat Kumar, learned counsel appearing on behalf of the petitioners in all the cases has drawn my attention to an order of this Court dated 18.5.2017 passed in C.W.J.C. No.4883 of 2017 (Dayaynand Ayurved College and Hospital, Siwan Vrs. Hon'ble the Chancellor of the Universities, Bihar). He contends that in that case also, the ordinance and regulations were not approved by the Chancellor. In the facts and circumstances of that case, the Court had issued direction to the respondents to ensure that the decision is taken on framing of ordinance and regulations in accordance with the provisions under the Bihar State Universities Act.

4. Paragraphs 6, 7 and 8 of the order passed by this Court in case of Dayaynand Ayurved College and Hospital (supra) are relevant and are, therefore, being reproduced herein below. I think in



the present set of facts and circumstances similar direction as given in case of Dayaynand Ayurved College and Hospital (supra) can be issued in the interest of justice :

“ 6. Considering the facts and circumstances, I dispose of the writ application with a direction to the University to comply with the requirements of any communication made from the office of the Chancellor, in this regard. Even, if there is no communication from the office of the Chancellor, it is directed that the University shall take all necessary steps, within a period of one (1) week from the date of receipt/production of a copy of this order, to ensure that all relevant documents/materials are made available to the office of the Chancellor for the purpose of grant of permanent approval of Ordinance and Regulations, framed by the University, and for approval of Transitory Regulation in relation to previous Academic Sessions, starting from the Academic Year 2013-14.

7. Considering the admitted position that P.G. course in the said two subjects, namely, (i) *Kayachikitsa* and (ii) *Dravya gun*, has been started in the College, in question, after Government of India has accorded its permission in the year 2013, the Court expects that the office of the Chancellor shall proceed for expeditious decision on the question of approval of Ordinance/Recognition for permanent approval of the said course and for approval of



Transitory regulations. The Court also expects that the entire exercise shall be completed within a period of three (3) weeks from the date when the University completes its formalities, as indicated above, by making available documents/information to the office of the Chancellor for this purpose.

8. Once, the Ordinance and Regulations/Transitory Regulations are approved, the University shall be required to expedite holding of the concerned examination.”

5. I, accordingly, dispose of these writ applications with following directions :

“(i) The University shall take a final decision on the question of sending the draft ordinance and regulations to the Chancellor for approval within a period of three weeks from the date of receipt/production of a copy of this order.

(ii) The Court expects that the office of the Chancellor shall consider the question of approval of the ordinance and regulations within two weeks from the date of receipt of the draft ordinance and regulations from the office of the Chancellor.

(iii) The question of holding of examination of the students of the Colleges shall arise only if the ordinance and regulations are approved.

(iv) There is yet another aspect. It is not known to the Court the circumstance in which these Colleges gave admissions to the students in the absence of the ordinance and regulations duly



approved by the Chancellor and the University, one point of time allowed the students of the College running the courses above to appear for at least one semester examination. Such act of these institutions and the University cannot have approval of this Court. However, the office of the Chancellor may take any decision in accordance with the provisions under the Act in this regard. Once decision is taken on approval of regulations/ordinance steps should be taken to ensure that examinations are held within a reasonable time.”

6. These applications stand disposed of.

(Chakradhari Sharan Singh, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19-05-2018
Transmission Date	

