

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16553 of 2017

=====

National Institute Of Health Education And Research situated at IDH, East of NMCH, Kankarbagh, P.S.- Alamganj, District- Patna through the Secretary, Dr. Umesh Prasad Gupta, Son of Late Deo Nath Gupta, Resident of Mohalla-IDH Colony, P.S.- Alamganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Vice Chancellor, Magadh University, Bodh Gaya.
4. The Registrar, Magadh University, Bodh Gaya.

Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate Mr. Dr. Anand Kumar
For the Respondent/s	:	Mr. Jitendra Kumar Roy No-1 -Sc13
For the Intervener	:	Mr. Sanjay Singh

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date : 16-05-2018

The facts of this case are glaring, shocking to the Court's conscience, which depict brazen and callous disregard by a University to mandatory statutory requirements, in the matter of (i) allowing the students of an institution to pursue such courses for which there was no Regulation nor any other provision and (ii) permitting them to take examination offered by the University and (iii) awarding them degrees, even when there was no 'affiliation' granted to such institution, within the meaning of the provisions



under the Bihar State Universities Act, 1976 (hereinafter referred to as 'the Act').

2. This writ application has been filed, seeking a direction to the respondents to grant affiliation to the petitioning National Institute of Health Education and Research, (hereinafter referred to as 'the Institute') Patna for different courses, namely, Bachelor of Physiotherapy, Bachelor of Medical Lab Technology and Bachelor of Radiograph X-ray Technology, all with the bridge courses.

3. This relief is being sought for on the assertion that the Institute was established in the year 1996 with the object to educate and provide professional degree and diploma courses in Para-medical and certificate course in Dresser, DMLT, ECG, DPT, BPT, X-ray etc. The Institute is said to have been granted recognition by the State Government of Bihar through a letter dated 19.09.1998 for conducting courses in (i) Physiotherapy, (ii) Occupational Therapy, (iii) Laboratory Technology, (iv) X-ray Technician and (v) ECG, with number of seats indicated in the said letter, which has been brought on record by way of Annexure-1 to this writ application. The temporary recognition for one year granted through the letter dated 19.09.1998 was extended by the State Government from time to time till permanent recognition



was granted by the State Government in the year 2009. A notification of the Health Department of the State Government dated 29.10.2009 has been brought on record by way of Annexure-2 to the writ application, whereby the State Government granted permanent recognition to the Institute in question. While granting permanent recognition, the State Government mentioned in the notification dated 29.10.2009 that 'no objection' for conducting degree courses in the subject was being issued, subject to the condition that the Institute shifting to its newly-constructed building and removing other deficiencies within one year. It is evident from the notification dated 29.10.2009 that the recognition in certain subjects was granted for running 'diploma courses'. The letter also contemplated that the institute shall get permission for conducting the course from All India Council for Technical Education (AICTE).

4. Nearly two years after the notification dated 29.10.2009 was issued, the Registrar of the Magadh University, through a letter dated 30.08.2011, communicated to the institute the decision of the Vice-Chancellor of the Magadh University to grant provisional permission for give admission in Physiotherapy, BMLT, Occupational Therapy, Radiography with degree and bridge courses with intake capacity of 40,60,25 and 30 students,



respectively in academic session 2011-12. Issuance of this notification is the beginning of illegality which verges on fraud on law, as would be evident from the narration of facts of this case. While granting such permission, it was indicated in the letter that the following conditions would apply.

“1. The Principal/Director shall submit an affidavit regarding the availability of required infrastructure (accommodation & equipment, etc.) in the college for teaching of above noted courses.

2. Teachers to be engaged for taking classes, should fulfil the minimum qualification required for being a lecturer and should be capable to take classes in the concerned subject as per UGC AICTE Guidelines.

3. The number of students to be admitted should be strictly as per the University directives and there should not be any deviation from the approved strength.

4. The Principal/Director shall get cleared the University dues related to Vocational Courses(ie. 20% of the total fee) before submitting the examination fee and form and get a no dues clearance certificate from the affiliation Section.”



5. It is also evident from the letter that the provisional permission was being granted to the college on the basis of the recommendation of the Affiliation Committee, Academic Council and the Syndicate, in anticipation of final approval of the Senate and the Government of Bihar under the provisions of the Bihar State Universities Act, 1976. One year after permission to undertake admission was granted by the University, the Magadh University, Bodh Gaya, sent a proposal to the State Government for grant of approval of affiliation for the academic session 2011-12 in different subjects.

6. It is the specific case of the petitioner that the students studying in the institute in different courses are regularly appearing and also passing in respective academic sessions since 2011, till date, which statement has not been denied by the University.

7. At this juncture, I may observe that there is nothing on record to show that the affiliation was ever granted in favour of the institute. There is a statement made in paragraph 9 of the writ application with reference to the letter dated 12.09.2012, issued by the Magadh University, Bodh Gaya, to Director, Health Department, Govt. of Bihar that the Magadh University had granted affiliation for the period 2011-12, which is factually



incorrect. The said letter, addressed to the State Government is apparently a proposal for grant of approval of new affiliation by the State Government. There is a reference of the letter dated 16.01.2015 (Annexure-5), written by the Inspector of Colleges (Science), Magadh University, addressed to the Director of the institute in respect of extension of affiliation in Physiotherapy course from session 2012-13. The Institute was directed to deposit the inspection fee of Rs. 15,000/-. It was indicated in the letter dated dated 16.01.2015, firstly; that further action in connection with the rest of the courses shall be taken only after approval of Regulations and Ordinance of the said courses by the Chancellor of the Universities. There are two things which are apparent from the letter dated 16.01.2015 that even in the opinion of the Magadh University the institute did not have affiliation from the academic session 2012-13 and, secondly, there was no Regulation and Ordinance issued by the Chancellor of the Universities of Bihar, governing the said courses. The Institute, it is being claimed, deposited the inspection fee, as directed by the University. There is nothing to show what happened thereafter in respect of contemplated inspection. More than two years later, the University again wrote to the institute that the institute was required to deposit a sum of Rs. 15,000/- as inspection fee for Bachelor of



Physiotherapy with bridge course. Inspection fee, on revision, had been fixed at Rs. 1,00000/- and accordingly for the purpose of inspection for grant of affiliation of Bachelor of Physiotherapy with bridge course, the Institute was asked to pay the rest amount of Rs. 85,000/-. In addition, for courses of Bachelor of Medical Laboratory Technology with bridge course and Bachelor of Radiography X-ray Technology with bridge course, the institute was asked to pay Rs. 1,00000/- each as inspection fee. It was again indicated that in respect of other courses, further action shall be taken after approval of Regulation and Ordinance by the Chancellor, Universities of Bihar. The Institute deposited the said amount of Rs. 2,85,000/-. Till the date of issuance of letter dated 23.05.2017, there is no evidence of grant of affiliation by the University to the Institute in accordance with the relevant provisions under the Act. There are letters dated 29.12.2016 and 25.07.2017, written by the Institute addressed to the Vice-Chancellor of the University to extend the affiliation and grant permanent affiliation. There is yet another letter dated 08.07.2017 written by the Legal Consultant for the Institute addressed to the Magadh University, reminding the University that affiliation was urgently required and accordingly requested the Magadh University to grant extension of affiliation. It is, thus, evident



from the letter dated 08.07.2017 that the institute was demanding extension of affiliation.

8. A question would arise as to whether the college was ever granted affiliation, which could be extended. Whether the University could at all confer upon the institute the status of an affiliated college without approval of the State Government, is one of the fundamental issues, which needs to be taken note of with reference to the statutory prescriptions. There is yet another very significant aspect of the matter, i.e., if the institute did not have the status of an affiliated college under the provisions of the Act, under what jurisdiction, in what capacity, under which law and for what consideration, the University and its functionaries allowed students of the institute to take examination in courses concerned?

9. I will be dealing with the aforesaid aspect at an appropriate stage with relevant statutory prescriptions, but before that, I intend to deal with certain other pleadings, which have been brought on record by way of supplementary affidavit, second supplementary affidavit and third supplementary affidavit filed on behalf of the petitioner. In the first supplementary affidavit filed on behalf of the petitioner, it has been stated that the future of approximately 300 students who have passed/appeared in the examination of Bachelor of Physiotherapy, BMLT and BMRIT has



become dark due to negligent attitude of the University authorities. It has also been stated that the University is conducting examination of the students of the institute in the said courses since 2013 till 2017 and the degrees have also been issued with migration certificates to such students, who passed the examination, but they are not granting extension of affiliation. It has been asserted that despite permanent recognition has been granted by the State Government of Bihar, vide memo no. 481 dated 26.04.2017, the University is not granting affiliation. The office order dated 26.04.2017 has been brought on record by way of Annexure 11 to the supplementary affidavit. At this stage, I must observe that the said office order dated 26.04.2017, has been issued in compliance of certain judgment/order of the learned Sub Judge-II, Civil Court, Patna City, in Title Suit No. 18 of 2015 dated 23.12.2016. The order refers to restoration of recognition, earlier granted by the State Government by the notification dated 29.10.2009, which has already been taken note of, hereinabove. By the said notification, permanent recognition has been granted by the State Government in respect of diploma courses for various subjects. Affiliation of the University is required for degree courses. The order dated 26.04.2017, does not, in any manner, improve the case of the petitioner on the question of his affiliated



status. Further, the degree courses, in question, are apparently technical courses for which recognition of the the AICTE, might have been required which has been referred to in the order, dated 29.10.2009. It is not the case of the petitioner that AICTE has granted recognition. In the second supplementary affidavit, which has been filed in compliance of this Courts' order dated 24.01.2018, it has been stated that the Institute has been granted permanent affiliation by the Health Department, Government of Bihar for teaching different degree courses, such as (i) Bachelor of Physiotherapy, (ii) Bachelor of Medical Lab Technology (BMLT), (iii) Bachelor of Radiography X-ray Technology (BMRIT), as per the syllabus duly approved by the Chancellor of the Universities through notifications dated 19.09.2014 and 27.01.2016. I must point out here itself that neither permanent affiliation has been granted by the Health Department by the aforesaid notification, nor permanent affiliation can be granted by the State Government, as would be evident from the discussion which I am going to have in the succeeding paragraphs.

10. It is also the plea of the petitioner that earlier, provisional affiliation was granted and subsequently permanent affiliation has been granted by the State Government by Annexure 2, as required under Section 21(2)(d) of the Act. The said



statement is palpably misleading. The letter dated 29.10.2010, cannot be treated to be approval of affiliation as contemplated under Section 21(2)(d) of the Act. On the question of Regulation of grant of recognition by AICTE, a plea has been taken in the second supplementary affidavit that respective Universities have been declared as competent authorities for running degree courses of BPT, BMLT and BMRIT in view of the notification issued by the Health Department, Government of Bihar, dated 27.06.2008. This plea also has been taken intentionally to mislead this Court. By the notification dated 27.06.2008, an Inquiry Committee has been constituted to inquire into the course by the Indian Institute of Health Education and Research, at Beur. One of the points which the Inquiry Committee was required to inquire into by the said notification dated 27.06.2008, was whether the courses which were being conducted by the said institute had approval of any Technical Council either at the All India level or at the State level. In addition, the inspecting team was required to report as to with the approval of which competent authority the said Institute was running the courses and whether the courses were being run in accordance with the prescribed syllabus. It has been reiterated that the University had conducted the examination for various academic sessions upto 2017 and results have also been declared



and degrees awarded. Surprisingly it is the stand of the petitioner that if at this stage the University authorities do not grant permanent affiliation, the future of the students, who passed the examination, will be ruined, whereas it is evident from the facts noted above the Institute was substantially responsible for irregularities and illegalities in which the authorities of the University were colluding.

11. In the third supplementary affidavit, yet another misleading and false statement has been made by the petitioner that the Institute had been granted permanent affiliation by the Health Department, Government of Bihar, for teaching different courses, such as (i) Bachelor of Physiotherapy Technology (BPT), (ii) Bachelor of Medical Lab. Technology (BMLT), and (iii) Bachelor of Radiograph X-ray Technology (BMRIT), as per the syllabus duly approved by the Chancellor of the Universities. This false statement has been made knowing fully well that the Institute was not having permanent affiliation, because in the present writ application, the Institute is seeking direction to grant extension of affiliation.

12. After having noted the case of the petitioner, as pleaded in detail in the writ application, I will now refer to the



stand of the University in the counter affidavit/supplementary counter affidavit filed on their behalf.

13. From the counter affidavit filed on behalf of the University, it appears that the inspecting team of the University inspected the college on 03.06.2017, and recommended for grant of permanent affiliation in Bachelor of Physiotherapy Technology, Bachelor of Medical Laboratory Technology and Bachelor of Medical Radiology Imaging Technology; all with bridge courses, from academic session 2012-13. The said report, which has been brought on record by way of Annexure A to the counter affidavit, is indicative of the fact that the institute did not have affiliation for academic session 2012-13. On the one hand, based on the inspection conducted, the inspecting team recommended grant of permanent affiliation, when the said report was placed before the Affiliation Committee of the University on 01.07.2017, in its meeting, it was unanimously decided that since no parameter was available with the university to test the quality of education system in respect of subjects mentioned necessary guidelines be sought from the State Government in this regard. (emphasis supplied). I am at a loss, as to how, when no parameter was available with the University to test the quality of education system in respect of the subjects concerned, the inspecting team, on the basis of inspection



could have made a recommendation for grant of permanent affiliation, that too retrospectively, from academic session 2012-13.

14. The proceedings of the meeting of the Affiliation Committee was placed before the Academic Council of the University. The Academic Council also approved a view of the Affiliation Committee. The matter was thereafter placed before the Syndicate. The Syndicate of the University in its meeting dated 04.07.2017 also approved the view of the Affiliation Committee and Academic Council. The matter of permanent affiliation was thereafter placed before the Senate of the University, which is the highest Body of the University on 05.07.2017. The senate, too, was of the view that, since no parameter was available in the University to test the quality of education system, necessary direction may be obtained from the State Government in this regard. A letter was accordingly sent to the State Government on 31.08.2017, seeking appropriate guidelines. The above facts go to show that there was no affiliation granted in favour of the institute, in question, at any point of time.

15. A counter affidavit has been filed on behalf of the State of Bihar also in which the only plea which has been taken is



that no matter is pending with the State Government in respect of grant of affiliation in respect of the Institute and since the grievance of the petitioner is against the University, the State Government has nothing to say. A letter dated 14.12.2017, issued by the Joint Secretary of the Health Department, addressed to the Director, Secondary Education, has been brought on record with reference to the Director's letter dated 13.10.2017. Taking note of the opinion of the Magadh University that it did not have the parameter to assess the quality of teaching in the concerned subjects, it has been opined in the said letter that the institute may be advised to seek affiliation from the Aryabhatta Knowledge University, Patna.

16. An application for intervention under Rule 5, Chapter XXI-C of the Patna High Court Rules has been filed by three persons in support of the writ application. They assert that they are students of the Institute and they have passed the examination of different courses from the said Institute and any decision with respect to affiliation of the Institute is going to affect the career of the Intervener-applicants and, therefore, they have a right to be heard in the present proceeding. Without entering into the technicality of maintainability of the intervention application, I.A. No. 2410 of 2018 stands allowed.



17. Mr. Sanjay Singh, learned counsel appearing on the said intervener-applicants has been heard at length. He has reiterated the stand taken on behalf of the Institute in the pleadings on record. He has contended that if the extension of affiliation was not granted by the University, it will affect the career of the intervener-applicants who claim that they had appeared in the examinations held by the University and have passed final examination of Bachelor of Physiotherapy. It is their case that they have been issued certificates and mark-sheets from Magadh University.

18. What is evident from the above noted discussions that the institute, in question, did not have the requisite affiliation with the Magadh University at any point of time. The letter dated 30.08.2011, issued by the Registrar of the University, granting provisional permission for taking provisional admission in the vocational courses to the institute can, by no stretch of imagination, be treated to be grant of affiliation. The said letter has been issued by the Registrar of the University, purportedly under the direction of the Vice-Chancellor of the University.

19. This is an undisputed fact that no approval of affiliation was ever granted by the State Government, as contemplated under Section 21(2)(d) of the Act. The Court fails to



understand when the institute did not have the status of an affiliated institution of Magadh University, how the institution allowed admission of students into various courses and how the Magadh University held the examination of the students of the college, which was not even affiliated with the Magadh University?

20. There is no gainsaying that the Statute approved by the Chancellor by letter No. BSU-16/86-1089-G.S(1), dated 19.04.1986 regulates affiliation of colleges with the University other than those managed and maintained by the University. Article 3 of the said Statute prescribes the procedure for making an application for admission by an educational institution as a college to the privileges of the University. Article 3(1)(e) of the Statute specifically mandates an educational institution to declare that 'no student has been, or shall be admitted to the institution, or in the subjects for the admission of which the application is being made, unless the admission prayed for has been granted by the University.' The expression 'admission prayed for' as occurring in Article 3(1) (e) of the Statute refers to admission of an educational institution as a college to the privileges of the University which is nothing but the affiliation which is granted by the University to an educational institution under the provisions of the said Statute.



The language of Article 3(1) (e) is unambiguous and clear and it proscribes admission of students in an institution which seeks affiliation with a University and it also makes clear that the students can be admitted only after affiliation/admission is granted by the University. The expression 'admission of an institution' occurring in the Statute has the same connotation which the expression 'affiliation of an educational institution with a University' has. Article 4 of the Statute authorizes the Syndicate that, on receipt of an application for admission by an educational institution a local inquiry is to be made as regards the matter specified in Article 3 of the Statute, if the Syndicate is satisfied on the basis of materials supplied in the application or otherwise that the college proposed to be established has nearly fulfilled, or is likely to fulfill all the conditions required by the law of the University and is likely to be run efficiently. The Syndicate, if not satisfied, may reject the application for admission/affiliation recording the reasons thereof. Sub-Article (2) of Article 4 prescribes that on completion of the inquiry as contemplated under sub-Article (1) of Article 4, the Syndicate shall forward a copy of its resolution to the Academic Council for suggestions, concerning the academic aspects. The Academic Council of the University, in turn, under the scheme of the Statute, is required to



make a recommendation to the Senate of the University as to whether the application should be allowed with, or without, modifications on a permanent basis, or provisionally for a limited period or should be rejected. Sub Article 5 confers upon the Senate the jurisdiction either to allow the application, with or without modification, either on permanent basis or provisionally for a limited period. The Senate may reject the application for admission recording ground for such rejection. The decision of the Senate is to be communicated to the institution concerned specifying the courses of instruction in which the institution is admitted and the standard upto which the admission is granted. Under Article 6 (1) of the Statute, the institution is thereafter required to duly report to the Syndicate regarding the fulfillment of various conditions imposed. Sub Article 2 of Article 6 of the Statute mandates the institution not to allow admission of students for the course unless the Syndicate is satisfied that the conditions necessary for starting classes has been fulfilled. (emphasis added)

21. As noticed above, there is no material nor any pleading even on behalf of the petitioner to show that the procedure prescribed under the Statute was ever followed.

22. Further, even if the Senate decides to grant affiliation to an educational institution, such affiliation cannot take effect



unless the approval is granted by the State Government, as contemplated under first *proviso* to section 21(2)(d) of the Act which reads thus:-

“Provided that affiliation or disaffiliation of Colleges or Tols shall not take effect, unless it is approved by the State Government.”

23. For the present, I have not entered into the question as to whether the institution was required to obtain recognition from All India Council for Technical Education under the All India Council for Technical Education Act. What transpires from the above discussions that the Institute was allowed admission of the students in utter disregard to mandatory statutory provisions under the Act and the Statute framed therein. Apparently, the functionaries of the University colluded with the petitioner by allowing the students of the college to appear for the examination. The students admitted in the Institute cannot, therefore, be treated to be the persons who legally pursued an approved course of study in the University, because they were not the students of the University.

Section 4 of the Act lays down the purposes and powers of the University which includes “to conduct examinations and to grant and confer degrees, diploma certificate



and other academic distinctions to and upon persons who-(a) have pursued an approved course of study in the University and passed the examination of the University, under the conditions laid down in the Statutes, the Ordinances or the Regulation” as mentioned under section 4(1)(2) of the Act. The students apparently did not pursue the course of study ‘in the University nor they passed the examination of the University under the conditions laid down in the Statute, Ordinances or Regulations’. On the contrary, the University, till recently did not have even the parameters to evaluate the quality of education system in courses in question.

24. The degrees obtained by such students of the institute, in my view, is wholly illegal.

25. The role of functionaries of the University, working at the relevant point of time, in my view, needs to be investigated and inquired into at the highest level.

26. I may take note of the Supreme Court’s decision in the case of **Annamalai University vs. Secretary to Govt., Information and Tourism Department & Ors.**, reported in **(2009) 4 SCC 590** wherein the Supreme Court has clearly laid down that no relaxation can be granted in regard to basic things necessary for conferment of a degree and if mandatory provisions are not complied with by an administrative authority, the action



would be void. Such void action cannot be validated by inaction, the Supreme Court held. Following the law laid down by the Supreme Court in the case of **Annamalai University** (supra), I have no hesitation in reaching the conclusion that the action of the University in allowing the students of the institute, which did not have the status of an affiliated college, was illegal and opposed to law. It is evident from the materials on records, which is an admitted fact, that the University allowed the students of the unaffiliated institute, who claim to have pursued their course with the subjects in respect of which the University did not have either expertise or wherewithal to assess the quality of teaching in the subjects to appear in the examination. The University authorities, thus, acted in flagrant violation of law while allowing the students to appear in the examination. Entire exercise of permitting the students of the college to appear for the examination is wholly illegal, void and, in my opinion, apparent fraudulent.

27. A recent decision of the Supreme Court in **Orissa Lift Irrigation Corporation Ltd. vs. Rabi Sakar Patro & Ors.**, reported in (2018) 1 SCC page 468 needs to be taken note of, for purposes of dealing with the situation as occurring in the present case. In the said case, the Supreme Court had occasion to deal with the degrees awarded by deemed to be University through



distance education mode without having permission of the statutory Distance Education Council. Noticing the illegality in grant of degree by such Universities the Supreme Court held in paragraph 57 as follows:-

“Having found the entire exercise of grant of *ex post facto* approval to be incorrect and illegal, the logical course in normal circumstances would have been not only to set aside such *ex post facto* approvals but also to pass consequential directions to recall all the degrees granted in pursuance thereof in respect of courses leading to award of degrees in Engineering. However, since the 2004 UGC Guidelines themselves had given liberty to the deemed to be universities concerned to apply for *ex post facto* approval, the matter is required to be considered with some sympathy so that interest of those students who were enrolled during the academic sessions 2001-2005 is protected. Though we cannot wish away the fact that the deemed to be universities concerned flagrantly violated and entered into areas where they had no experience and started conducting courses through distance education system illegally, the overbearing interest of the



students concerned persuades us not to resort to recall of all the degrees in Engineering granted in pursuance of the said ex post facto approval. However, the fact remains that the facilities available at the study centres concerned were never checked nor any inspections were conducted. It is not possible at this length of time to order any inspection. But there must be confidence and assurance about the worthiness of the students concerned. We, therefore, deem it appropriate to grant some chance to the students concerned to have their ability tested by authorities competent in that behalf. We, therefore, direct that all the degrees in Engineering granted to students who ere enrolled during the academic years 2001 to 2005 shall stand suspended till they pass such examination under the joint supervision of AICTE-UGC in the manner indicated hereinafter. Further, every single advantage on the basis of that degree shall also stand suspended.”

28. The situation, in the present case, is worse. In the case of **Orissa Lift Irrigation Corporation Ltd.** (supra), there was liberty given under the 2004 UGC guidelines to the deemed to be Universities for *ex post facto* approval. The Supreme Court



while holding such *ex post facto* approval granted to be illegal, considering it proper to issue certain directions for testing abilities of the students, whose degrees deserved to be recalled, as a consequence thereof. In the present case, it is apparent that the Institute did not have the affiliation with the Magadh University. There was no Ordinance and Regulations framed by the University for regulating the course, which was being conducted by the Institute. The University did not have any kind of experience in field, in which the Institute was imparting education/training. Clearly, with the collusion of the functionaries of the University and the Management of the Institute, examinations appear to have been held. Such examinations cannot be said to be having any sanctity in the eye of law. The degrees awarded by the University in the manner as noticed above, are also illegal. I hold accordingly.

29. After having held so, I consider it appropriate to direct the Vice Chancellor of the University to take steps for recall of the degrees illegally granted to the students who had pursued their course in the National Institute of Health Education & Research, Patna, after allowing them to represent their cases before the Vice Chancellor. All such students shall be noticed through publication of notice in Hindi and English newspapers of



wide circulation in the State of Bihar. If, despite reasonable time given to such degree holders they do not respond, the University shall pass appropriate orders in the light of observations as above. Entire exercise must be completed within six months from today.

30. The glaring facts which have been noticed in the present case, compel the Court to issue certain directions to all the Universities in the State of Bihar, governed by the provisions of the Bihar State Universities Act, 1976, as under:-

(i). No University shall allow any student of an unaffiliated college to get registered with the University in any circumstance.

(ii). No college/institution will give admission to the students to any course leading to degrees, which can be awarded by one of the Universities, governed by the Act, unless such institution has been granted affiliation by the University duly approved by the State Government and permission for admission of the students has been granted as contemplated under Article 6(2) of the Statute dated 19.04.1986 (supra).



(iii). Unless there is declaration in an application seeking affiliation as contemplated under Article 3 (1)(e) of the Statute dated 19.04.1986 (supra), no application of any college/institution shall be entertained by such Universities. Under Article 3(1)(e), there is stipulation that an institution seeking affiliation shall have to declare that no student has been admitted, or shall be admitted to the institution, unless the affiliation prayed for, has been granted by the University. An application for grant of affiliation shall be liable to be rejected if it is noticed by the competent authority that the College in question has allowed admission of students.

(iv). The Chancellor of the Universities of Bihar and the Universities under the Act, shall take all possible steps, by way of notice or otherwise to ensure that unscrupulous illegal institutions do not dupe the students by offering them



admission, even without affiliation granted
to such institution, strictly in accordance
with the provisions under the Act.

31. This writ application is, accordingly, dismissed with the direction, as above, with exemplary cost of Rs. 2 lac to be paid by the petitioner, which shall be deposited in appropriate account of the Chancellor, Universities of Bihar, within two months from today to be utilized for the purpose of grant of scholarship to the meritorious students.

32. It is made clear that the students, who had been offered admission in the Institute for degree courses illegally, which were not approved, will have liberty to seek compensation from the Institute, in appropriate proceedings, in accordance with law.

33. Let a copy of this order be sent to the office of the Chancellor, for its circulation to all the Universities, which are governed by the Bihar State Universities Act, 1976.

(Chakradhari Sharan Singh, J)

HR/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	18-05-2018
Transmission Date	N/A

