IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5476 of 2017

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Abhshek Kumar S/o-Subodh Kumar Choudhary, Resident of Village-W.No.-29, Bagha Bypass Road, P.O.-Suhird Nagar, P.S.-Town Thana, Dist.-Begusarai, PIN-851218.

... ... Petitioner

Versus

1. The State of Bihar, through Principal Secretary, higher Education Human Resources Development Department, Govt. of BIhar.
2. The Vice-Chancellor, Lalit Narayan Mithila University, KameshwarNagar, Darbhanga, PIN-846004
3. The Registrar, Lalit Narayan Mithila University ,Kameshwarnagar, Darbhanga, PIN-846004.
4. THe Controller of Examinations, Lalit Narayan Mithila University, Kameshwaranagar, Darbanga, PIN-846004.
5. The Assistant, Lalit Narayan Mithila University, Kameshwaranagar, Darbanga, PIN-846004.
6. Nishant Gunjan
7. Arti Kumari
8. Nidhi Vatsa
9. Vivekanant Tiwari
10. Iftekharul Haque
11. Vishnu mandal
12. Suresh Kumar Singh
13. Pramath Nath Jha
14. Sweta
15. Ragini Kumari
16. Niti
17. Arvind Singh
18. Sanjay Singh
19. Prabibha Rai
20. Fakhruddin Ali Ahmad
21. Janki Raman
22. Arun Kumar
23. G. Shankar
24. Randas
25. Dilip Kumar
26. Suman Kumar
27. Syed Md. Tahseen Alam Qadri
28. Kishwar Jahan
29. Subhabrata Bandyopadhyay
30. Sanjay Mourya
31. Abinash Kumar
32. Arvind Kumar
33. Ruby Kumari
34. Randhir Kumar
35. Gopal Krishna
36. Manoj Kumar
37. Samina Shamir
38. Arvind Kumar Mishra
39. Umesh Singh Sl No. 6 to 39

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S/o Name not known Through the Registrar, L.N. Mithila University Kameshwar Nagar, P.S. Kameshwar Nagar, Distt. Darbhanga, PIN 846004

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 2228 of 2017

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Rekha Sinha, W/o Ranjeet Kumar Singh, resident of village - Shivaraban Chaturbhuj, Post - Jhaphan, P.S. Aihyapur, District - Muzaffarpur

... ... Petitioner

Versus

1. The Vice Chancellor, L. N. Mithila University, Darbhanga
2. The Registrar, L.N. Mithila University, Darbhanga
3. The Examination Controller, L.N. Mithila University, Darbhanga

... ... Respondents

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with

Civil Writ Jurisdiction Case No. 13295 of 2017

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(Dr.) Saifullah Khalid Son of late Shamim Ahmad Resident of Rasoolpur Nista, P.S.- Singhwara, District- Darbhanga, Presently at Hafeez Colony, Naya Bazar, Dhanbad, Jharkhand.

... ... Petitioner

Versus

1. The Chancellor of Universities of Bihar, Governor House, Patna.
2. L.N. Mithila University, Darbhanga through its Registrar.
3. Controller of Examination , L.N. Mithila University, Darbhanga.
4. The State of Bihar through the Principal Secretary, Human Resource Department, Patna.

... ... Respondents

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Appearance :
(In Civil Writ Jurisdiction Case No. 5476 of 2017)
For the Petitioner : Mr. Pranav Kumar, Advocate
For the Respondent State: Mr. Sunil Kumar, AC to GA-12
For the Respondent BNMU : Ms. Vandana Kishore, Advocate
For the Pvt. Respondent Nos.5,6&7: Mr. Amresh Kumar Singh, Advocate
Mr. Sushil Kumar Ray, Advocate
(In Civil Writ Jurisdiction Case No. 2228 of 2017)
For the Petitioner/s : Mr. Shashi Bhushan Singh
For the Respondent/s : Mr. Md. Nadim Seraj
(In Civil Writ Jurisdiction Case No. 13295 of 2017)
For the Petitioner/s : Mr. Md. Shahab Khalil
For the Respondent/s : Mr. Jitendra Kumar Ray - Sc13

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT
Date : 26-10-2018

Heard learned counsel for the parties.

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2. Challenge in the present writ applications is to the result declared by the Education Department of Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga (hereinafter referred to as 'the University') for admission to Ph.D. course. Though the relief, which the petitioners were initially seeking, was for a direction to the respondents to provide them admission to Ph.D. course, based on the pleadings on record, it appeared to the Court that the result for admission to Ph.D. course was published not only in clear violation of statutory provisions, governing admission to the said course, it was not done in a fair and *bona fide* manner. This was the reason why the Court went into the legality of the entire exercise undertaken by the University leading to the publication of result in question.

3. There are certain facts which are not in dispute. The University had issued notice inviting applications for Pre-Registration Test (hereinafter referred to as 'the PRT') on 18.05.2013 for admission to Ph.D. course. As per the schedule mentioned in the notice, the examination was held on 30.06.2013 and the result was published on 12.08.2013. Out of 299 students, who had applied for the Pre-Ph.D. Test, 164 candidates qualified. 102 candidates could not qualify in the said PRT and rest 33 were marked absent. Nothing moved for three years after publication of

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the result on 12.08.2013. Suddenly, nearly three years thereafter, on 16.06.2016, the Post Graduation Research Council (hereinafter referred to as 'the PGRC') of the University recommended for initiation of the process of admission to Ph.D. course of the candidates qualified in PRT-2012-13. Based on the number of qualified supervisors available in the faculty of Education, it was decided by the PGRC that there would be only 34 vacancies in the faculty of Education for PRT-2012-13 qualified candidates.

4. The interview for shortlisting candidates was held between 06.09.2016 and 09.09.2016. In the said interview, only 52 candidates appeared, out of 164 qualified. The University declared result of 34 candidates as successful out of 52 for admission to Ph.D. course in Education on 16.09.2016.

5. It has come out on the basis of pleadings on record and materials available in the original record that the merit list has been prepared on the basis of educational qualification (80%) and, presentation and *viva-voce* Test (20%). PRT Score has not at all been any factor for determining the success of a candidate for admission in Ph.D. course, which is evident from Annexure-B to the supplementary counter affidavit filed on behalf of the University on 24.08.2017. It is evident from the decision of the PGRC in its meeting held on 16.06.2016 (Agenda No.4) that 80

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marks out of 100 marks was fixed for career and 20 for interview; consisting of the subject concept (10 marks) and presentation scale (10 marks).

6. Since the entire process of selection was under challenge, the candidates selected on the basis of the said PRT-2012-13 were directed to be noticed through the University. Some of the candidates, so selected, have appeared after receiving notices and have filed their counter affidavits. They have not disputed the facts as noted above in their counter affidavits.

7. In the counter affidavit filed on behalf of private respondent Nos. 6, 7, 8, 9, 11, 12, 13, 15, 16, 18, 22, 23, 24, 27, 28, 31, 33, 34, 35, 37 and 38, the plea, which they have taken, is that the result was published on 20.11.2016 whereafter they obtained earned leave from their respective employers for completing course work and they have completed their course work on 31.03.2017, which started on 28.11.2016. They claim thus that their course work was completed between 28.11.2016 and 31.03.2017. According to them, since the successful candidates were requried to complete the course work for six months/120 working days at the University, they have completed the said course work in four months.

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8. It has been the consistent case of the petitioners in all the three cases that they did not have any knowledge about the date of interview since they were never communicated in this regard by the University through any means. On the other hand, if the case of the University is to be accepted, for the first time, the dates of interview were placed on the *website* of the University on 02.09.2016. It is accordingly the case of the University that since the dates of interview were available on the *website* and, therefore, that being in the public domain, the petitioners, who had qualified in PRT, could not allege absence of notice of the dates of interview.

9. When the matter was taken up on 29.01.2018, the following order was passed, making an observation that the entire matter needs to be enquired into:-

> **"An affidavit has been filed, sworn by the Vice-Chancellor, Lalit Narayan Mithila University, Darbhanga, in purported compliance of this Court's order, dated 19.01.2018. Various directions were given in the order, dated 19.01.2018, for the Vice Chancellor to file affidavit in respect of certain points enumerated in the said order, relevant portion of which is being re-produced hereinbelow:-**
>
> > **"Let the Vice-chancellor, Lalit Narayan Mithila University file an affidavit in this regard and state as to what steps have been taken for registration of the candidates who are said to have qualified in the course work.**

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The Vice-Chancellor of the University will also be required to state by way of affidavit as to when the result of PRT was uploaded on the web-site of the University. The Head of Department, Education, Lalit Narayan Mithila University, who is present, has stated that the candidates were invited for interview between 06.09.2016 to 09.09.2016 through a notice, dated 02.09.2016 placed on the website of the University.

The Vice-chancellor, in his affidavit, will also state as to what information was placed on the website along with the said notice dated 02.09.2016.

This direction is being issued in the light of a plea taken by the petitioner of CWJC No. 13295 of 2017 that he was neither aware of the result nor any communication was received by him in respect of passing his PRT held by the University nor in respect of date of interview fixed. Letter dated 22.08.2016 has been brought on the record by way of Annexure-5. The Court would like to know from the Vice-Chancellor himself as to when the said letter was dispatched by the University office. He is also required to state as to when the said letters were dispatched to other similarly situated candidates."

The Court had observed that, *prima facie*, there appeared a case of bungling in the process of selection of candidates for admission to Pre-Ph.D. course. The only statement, which has been made in the affidavit filed on behalf of the Vice-Chancellor, Lalit Narayan Mithila University, Darbhanga, is that the Vice-Chancellor has constituted a high-

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level enquiry committee. The Vice-Chancellor has, in fact, not complied with the order, dated 19.01.2018; rather, has defied it by not making statement in respect of the points mentioned in the said order, as has been quoted hereinabove.

I will consider this conduct of the Vice-Chancellor later.

The original records of the selection, in question, have been produced by learned Counsel appearing on behalf of the University. Since the conduct of the Vice-Chancellor itself has become suspicious, I consider it appropriate to observe that an enquiry should be made at the level of the Office of the Chancellor, Universities of Bihar. Let the original records be handed over to learned Counsel appearing on behalf of the Chancellor, Universities of Bihar, for the same being handed over to the Chancellor's Office.

The Court requests the Chancellor, Universities of Bihar, to cause an enquiry into the manner in which the selection has been made for Pre-Ph.D. course, which is under challenge in the present proceedings.

Considering the fact that the matter relates to admission to Ph.D. course, which is time bound, the Court desires that the enquiry should be completed expeditiously.

Let the matter be listed, under the same heading, on 12th February, 2018.

The Court, on the said date, would like to know the progress of the enquiry into the matter."

10. In view of the observations, so made in the order dated 29.01.2018, an enquiry has been conducted by the Joint Secretary, Governor's Secretariat, Bihar, whose report has been submitted under his signature and the signature of the Vice-chancellor, B.N. Mandal University. There is a finding in the

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report that the University could not maintain transparency in selection of the candidates for Ph.D. course in PRT-2012-13. From the report, it appears that the said result, said to have been published on 12.08.2016, was never put on the *website* of the University nor the successful candidates were intimated about their result. There is specific mention in the said report in paragraph 6 that the Deputy Examination Controller, vide letter dated 22.08.2016, had intended to communicate the result of successful candidates of Pre-Ph.D. Test to face an interview, but the letter was never issued/sent/delivered to the successful candidates. It is also mentioned that even the date, time and venue of the interview was not mentioned in the said letter to be sent to the candidates. It has further been mentioned that following the recommendation of PGRC, the Deputy Controller of Examination through letter, dated 02.09.2016, had requested the Development Officer to upload the result of Pre-Ph.D. Test. In his letter, the Deputy Controller of Examination mentioned that the list had already been given to the Development Officer for uploading it on the *website* of the University. The Deputy Examination Controller, however, did not mention the letter number of the previous letter sent to the Development Officer for uploading the result. Even the said letter did not mention the timing of the interview. It also transpired in

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course of enquiry that the Deputy Examination Controller could not explain whether he had handed over the result of the successful candidates to the Development Officer for uploading the same on the *website* prior to 02.09.2016. It is accordingly the finding that though 'so-called interview' was fixed between 06.09.2016 and 09.09.2016, none of the officials took the pain to communicate the interview programme properly to the successful candidates. It has also been recorded in the report that the Development Officer accepted that the list of successful candidates was uploaded on the *website*, for the first time, on 02.09.2016.

11. Admittedly, thus, the PRT was held on 18.05.2013 and for the first time, result was published nearly three years and four months thereafter. The result was uploaded on the *website* on 02.09.2016. Interviews were held between 06.09.2016 and 09.09.2016 according to the University, apparently in hot haste for the reasons unknown. Admittedly, explicit time, date and venue as to when and where the candidates were to be interviewed were not notified in any manner whatsoever by the University. Reason why only 52 candidates participated out of 164 successful is evident since only those candidates participated, who had personal knowledge of sudden initiation of the process of interview after publication of result on 02.09.2016.

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12. The grievance of the petitioners, who are also, admittedly, successful candidates of PRT is that they did not have due notice rather any notice to participate in the process of interview for admission to Ph.D. course thus stands fully substantiated. The finding in the enquiry report that the University administration could not maintain transparency in the selection of candidates, in my view, is an understatement. The process of selection not only lacks *bona fide* rather it appears to be tainted with *mala fide*, which has been done in a clandestine manner. It appears that the process was suddenly initiated after three years, without due notice to the aspirants, to favour candidates on extraneous considerations.

13. I need not go into other aspects of the matter in view of subsequent decision taken by the University, which has been communicated to the Office of the Chancellor through letter dated 07.07.2018 during the pendency of this application to the effect that the Examination Board of the University in its meeting held on 03.07.2018 has decided to cancel the final result of PRT-2012-13 for admission to Ph.D. course in the Faculty of Education. The said communication dated 07.07.2018 has been brought on record by way of Annexure-A1 to the 6th supplementary counter affidavit

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filed on behalf of Lalit Narayan Mithila University in C.W.J.C. No. 5476 of 2017.

14. In view of the cancellation of result, the grievance of these petitioner(s) does not survive any more.

15. The Vice-chancellor of the University is directed to take steps for proceeding afresh for conducting interview on the basis of the result of PRT-2012-13 for admission to Ph.D. course in Education after due publication of notice indicating the respective dates, place of interview and time. Such exercise must begin within three weeks from today. The notice must be published on the *website* of the University giving the dates of interview clearly indicating the roll numbers of the candidates with their respective names, to be interviewed on a particular date. The notice will also indicate the place and timings, i.e., the time, when the process of interview on the particular date will start and end. There must be gap of at least four weeks between notice for interview and the commencement of the interview. In addition, the candidates, to be invited for interview, should be informed to their addresses as indicated in their applications, through speed post and e-mail, if available.

16. Before I part with this judgment, I need to take note of the admitted fact that the University is said to have arranged

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course work between 28.11.2016 and 31.03.2017. The University Grants Commission (Minimum Standards and Procedure for Awards of M.Phil/Ph.D. Degree) Regulation, 2009, prescribes in Regulation 13 as follows: -

> **"Course Work**
>
> **13. After having been admitted, each M.Phil/{h.D. student shall be required by the Universities, Institutions, Deemed to be Universities and Colleges/Institutions of National Importance, as the case may be, to undertake course work for a minimum period of one semester. The course work shall be treated as pre M.Phil/Ph.D. preparation and must include a course on research methodology which may include quantitative methods and Computer Applications. It may also involve reviewing of published research in the relevant field. The individual Universities, Institutions, Deemed to be Universities and Colleges/Institutions of National Importance, as the case may be, shall decide the minimum qualifying requirement for allowing a student to proceed further with the writing of the dissertation.**
>
> **It found necessary, course work may be carried out by doctoral candidates in sister Departments/Institutes either within or outside the University for which due credit will be given to them."**

17. The said Regulation, which is mandatory, prescribes that the candidates, after having been admitted in Ph.D. course are required to undergo 'Minimum period of one semester'. 'Semester' means, 'either of the two usually 18 weeks period of instruction in which the academic year is often divided'. The semester means six months. The origin of the word is from latin

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word '*semestris*', which means semestris 'six'+ mensis (month). How the semester could have begun in November/December and ended in March is a question which does not have apparent answer. Period of completion of any course statutorily prescribed has its own purpose to be served. Research methodology is an important component for effective and meaningful research, significance of which cannot be either undermined or overlooked.

18. In my view, it is high time when the Institutions of higher education rise to the occasion not only to ensure strict adherence to the Regulations prescribing course work, they should also ensure that skilled persons are engaged and utilized in course work programme for imparting education and teaching research methodology.

19. With these observations and directions, I dispose of these applications.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	29.10.2018
Transmission Date	N/A

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