

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1105 of 2017

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Ramkrit Tiwari son of Late Jagarnath Tiwari resident of village - Ramkaran
Pakari, P. S. Chakia, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. The Director, Primary Education, Govt. of Bihar.
3. The District Magistrate, West Champaran.
4. The District Programme Officer (Establishment), West Champaran.
5. The Block Development Officer, Yogapatti Block , District - West Champaran.
6. The Block Education Officer, Yogapatti Block, District - West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Karandeep Kumar
For the Respondent/s : Mr. Jitendra Kumar Roy No-1 Sc-13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 01-05-2018 Vide order dated 14.3.2018 after considering the submission of the parties, the court granted three weeks time to the respondents to place on record the decision taken by the respondents pursuant to the order passed by the Apex Court and in the meanwhile, status-quo was granted. On 10.4.2018 when no additional counter affidavit was placed on record, the court granted two weeks further time as a matter of last indulgence yet the respondents have not filed additional counter affidavit and maintained golden silence.

2.The issue in the present writ application is recognition of the degree obtained by the petitioner for the



academic sessions 1983-85 and 1986-88.

3. Learned counsel for the petitioner with regard to issue of recognition, refers to the judgment of the Apex Court in Civil Appeal No. 4129 of 1989. Learned counsel submitted that the Apex Court has the occasion to consider the various aspects of the matter and noticing the fact that the rule regulating recognition was not properly considered earlier while examining the case of the recognition of the institution in question and adjudicated the issue of recognition of the institution in question.

4. The Apex Court has discussed the entire gamut of fact in the aforesaid Civil Appeal and the relevant part for the purpose of deciding the present writ application is hereby quoted as follows:-

“We have heard learned counsel for the appellant college at great length. He pointed out that a college of the present type cannot suddenly grow up in a day; the growth can necessarily be only gradual and is dependent upon various circumstance. He criticized the rather technical view taken by the State Government and tried to persuade us that the college has substantially complied with all the rules which were framed in 1987. He also pointed out that actually the college had come into existence long before the rules were framed and that prior to 1987-89 session there was no question of any specific rules to be complied with by the college for recognition. He urged that,



since students have undergone courses for four sessions between 1983-85 and 1986-88 and have been allowed to take the examination, we should direct the Government to grant recognition to the college and to publish the examination results of the students of the college who have been allowed to participate therein. So far as the 1987-89 and 1988-90 sessions are concerned, learned counsel submitted that, after having granted recognition to the college by a considered order, there was no justification for setting aside the recognition so granted. He also criticized the order as based on no material and contrary, in fact, to the reports which had been submitted under the directions of the Government.

Shri Goburdhan, learned counsel for the State, pointed out that, under the statute, the appellant college must have applied for permission and secured recognition before admitting students. He emphasized that there is no information on record as to the state of the college between 1983 and 1987 when the first report was submitted. He, therefore, submitted that, at best, the State can be asked to consider the question of recognition of the college for the years 1983-85 to 1986-88. So far as the years 1987-89 and 1988-90 are concerned, learned counsel relied on the order passed by the Government dated 02.02.1989

We are of the opinion that the order dated 02.02.1989 has to be set aside. As we have pointed out, the rules envisage that the question of recognition of a college has to be decided in the light of factual findings by committees appointed for the purpose. In this case, there are three clear reports, one of 1987 and the others of 1988, which have examined all the relevant aspects and recommended that the college deserves recognition. In fact, we find that some of the criticisms made in the impugned order are too



flimsy to be upheld. For instance, it is stated that a college should possess 5 acres of land but that the appellant college possesses only about 4.5 acres of land. This cannot be a ground for outright rejection of the application. It may be a good ground for asking the college to acquire the remaining area at an early date and make good the deficiency. In fact, Shri Bhandare, counsel for the appellant college pointed out that, subsequently, in 1988, the college has taken on lease 4.5 acres of land adjacent to its property, and that it has thus complied with the rules. Another criticism is that a training college should have at least 5000 books but the appellant college had only 1569 books. In our view, this is also a matter that should be asked to be rectified at an early date and not for outright rejection. The requirements as to area of land and number of library books are not to be meant to be complied with precisely and there is room for relaxation. What the Governments should see is whether there has been substantial compliance. The other criticism that there are no proper buildings, class rooms, common rooms; library, hostel and sports facilities are totally contrary to what has been set out in the reports we have referred to earlier. As we have mentioned earlier, the reports have examined every one of these aspects and then only recommended recognition. The order dated 02.02.1989 does not show whether the contents of these reports were looked into and what material there was for canceling the recognition recommended after due inspection. It appears that the recognition plea has been rejected out of hand for unsatisfactory reasons. We are, therefore, constrained to set aside the order of the Government dated 02.02.1989. The result of this will be that the recognition granted to the college for 1987-89 and 1988-90 will revive.



So far as the earlier sessions are concerned, it is true that the appellant should not have started the college and admitted students without prior permission from the Government. But, since this has been done, the Government should examine the position and see, whether despite lack of prior permission, the college has done a satisfactory job and whether the students trained in these sessions have had a proper training on the right syllabus. There is substance in the contention of the counsel for the State that there is no material on record before us as to the factual position that prevailed in each of the earlier years. The inspection reports were only in 1987 and 1988. It is, therefore, necessary to remit the matter for these years to the Government to consider the factual situation as it prevailed in the earlier years and on the question of recognition in respect thereof. In doing this, we think that the Government should take into account not only the various aspects pointed out in the reports which we have referred to above but also certain other important criteria. Firstly, one has to allow for the fact that an institution has to develop gradually and that the entire infrastructure cannot be expected to exist from day one. While the existence of suitable accommodation and facilities are necessary, these can come later in stages. Secondly, more than findings on accommodation etc. the emphasis for grant of recognition should be on the qualifications of the teachers, the existence of proper staff, and finally, the quality of the training imparted in the institution. As Shri Bhandare has pointed out, there has been no criticism on these aspects in any of the reports or even in the Government order. However, the fact remains that so far as the years 1983-85 to 1986-88 are concerned, the Government has not examined the facts independently. The rejection of recognition



for these years was consequent on the cancellation of the recognition for the years 1987-89 and 1988-90. Now, as we have upheld the recognition for those two sessions, the position regarding earlier sessions to be examined independently.

We would also like to mention in this context that, since the rules came into force only in 1987, the question of recognition for the period 1983-85 to 1986-88 will not depend upon conformity with the strict provisions of the rules. The Government should rather see whether the appellant college was imparting training with competent personnel and trained its students adequately for the examinations for which they were to appear. The Government would have to bear in mind what 100 students have come out of the college in each of these four sessions and that, unless there is a real apprehension that they have not received proper training, it may be unfair to refuse recognition for these years. Having regard to the fact that these four batches of students have already appeared in the examinations but that their results have been withheld, their future is in jeopardy unless recognition is granted and their results are declared at an early date. As the question of recognition for these years has been in abeyance for a long time. We would direct the Government to have the matter examined immediately and pass orders on the college's application for the years 1983-85 to 1986-88 not later than 31st December, 1990. We hope that the Government will look into the matter and pass their orders on the issue of recognition for the years 1983-85 to 1986-88 even earlier than that, if possible.

5. Learned counsel for the petitioner referring to the direction of the Apex Court wherein the intake was fixed by the



Apex Court as 31.12.1990 he submitted that the case of the petitioner falls within the sanctioned strength.

6. Learned counsel for the petitioner submitted that in fact vide order dated 31.12.1990 contained in Memo no.1049 recognition was granted to the institution for the period of 1983-85 to 1986-88. Recognition was subsequently withdrawn by the State Government vide order dated 7.4.1993 and as such during the period the petitioner has undergone training and obtained degree the institution in question was recognized and respondents cannot treat the case of the petitioner to have obtained degree from a non-recognized institution.

7. In view of the observation of the Apex Court and the discussion as to the recognition of the institution in question –by this Court in C.W.J.C. No. 902 of 2009 and analogous cases dated 26.2.2009, the respondents are required to take fresh final decision as to the fate of the petitioner as they cannot be made to suffer due to indecisiveness of the respondents, the respondent authorities are hereby directed to take final decision in the light of the judgment of the Apex Court. The decision of the State Government dated 31.12.1990 and the order of the coordinate Bench in C.W.J.C. No. 902 of 2009 and analogous cases dated 26.2.2009.



8. In the result, the impugned order contained in Annexure-3 and 4 is hereby quashed with liberty to the respondents to pass fresh order in the light of observations made herein above.

(Anil Kumar Upadhyay, J)

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