

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6281 of 2018

1. Sweta Kumari, Daughter of Devenand Prasad, Resident of Bich-Bazar, Rajauli, Post Office and Police Station Rajauli, District Nawada-805125.
2. Richa Rani, Wife of Amit Raj, Resident of Chand Chaura (Gabra Par), Police Station Gaya, District Gaya.
3. Nisha Kumari, Daughter of Santosh KUMar Singh, Resident of Kendui, Neat Suraya Mandir, Police Station Magadh Medical College, District Gaya 824231
4. Mandakini Pandey, Daughter of Y. Pandey, Resident of Flat No. 106/B, Mundeshwari Trident Near Tribhuvan School, Vijay Singh Yadav Path, Police Station Danapur, District-Patna.
5. Shubham Kumar, Son of Sudhakar Singh, Resident of Bhagwanpur, Post Office and Police Station Bodh Gaya, District-Gaya 824231.
6. Mukesh Kumar Sharma Son of Vijay Kumar Sharma, Resident of VachaspatiNagar Colony, West of Kumhrar Railway Crossing, Sandalpur, Post Office Mahendru, District Patna 800006.
7. Sikha Singh Daughter of Sri Swadhineshwar Prasad Singh, Resident of 105-F, Chetna Enclave, CDA Colony, Near Nalkup Bhawan, A.G. Colony, District Patna.
8. Bhawna Mishra, Wife of Amit Kumar, Resident of House No. 533, 'A' Magadh Colony, Road No. 6, Police Station Magadh Medical College, District Gaya-823001.
9. Tarique Anwar, Son of Riyazuddin, Resident of Kirani Ghat, River Side Road, Police Station Kotwali Thana, District Gaya-823001.
10. Beauty Mondal, Wife of Nand Kishore Roy, Resident of Sahdeo Prasad, East Patel Nagar, Near Patel Chowk Opposite City Lounge Resort, Shahnaz Signature Salon, District Patna, Patna-23.
11. Tamkanat Mukhtar, Daughter of Md. Mukhtar Alam, Resident of Baniya Pokhar Near Salfia Masjid, District-Gaya-823001.
12. Ratna Prabha Kalyan, Wife of Anurag Kumar Gaura, Resident of Tikabigha Kalyan House, Post Office and Police Station Bodh Gaya District-Gaya-823202.
13. Khushnuma Perween, Wife of Mohammad Mumtazuddin, Resident of Chakdaulat Lakhanpura, Police Station Lakhanpura, Bihar-823202.
14. Dharmendra Kumar Son of Basudeo Thakur, Resident of Mau, Police Station Tekari, District-Gaya-824235.
15. The Magadh University, through Its Registrar. Bodh Gaya, Gaya.

... .. Petitioner/s

Versus

1. The Magadh University, Through Its Registrar, Bodh Gaya, Gaya.
2. The Vice-Chancellor, Magadh University, Bodh Gaya, Gaya,
3. The Registrar, Magadh University, Bodh Gaya, Gaya.
4. The Controller of Examination, Magadh University, Bodh Gaya, Gaya.



5. Dean, Faculties Of Humanities, Magadh University, Bodh Gaya, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jugal Kishore, Senior Advocate Mr. Subhash Chandra Jha
For the University	:	Mr. Priyank Deepak
For the Respondent/s	:	Mr. Syed Firoz Raza

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 15-05-2018 Heard learned counsels for the parties.

2. Petitioners claim that they were registered for Ph.D. Course with the Magadh University, after having passed Pre-Ph.D. Test, in the department of English. Their grievance is that they have been declared 'fail' in the Ph.D. coursework examination, held six months after commencement of the coursework. They have two points to raise before this Court. It has been firstly submitted that 50 per cent is the required marks for a candidate to pass the coursework examination. The petitioners, it is being claimed, have secured 50 per cent in internal test and end semester examination, taken together. It is being argued on their behalf that in the department of Philosophy, under the University, the Ph.D., scholars who secured 50 per cent marks, taking their respective scores in internal test and end semester examination together, have been declared 'pass' in the coursework examination. The petitioners are being denied the same treatment on the ground that they



have not secured 50 per cent marks in internal test and in end semester test separately, which according to the petitioners, is discriminatory. It has secondly been submitted that the petitioners have missed to pass the examination by a very narrow margin and, therefore, their answer sheets should be re-evaluated to reconsider the decision of the University on their results of the coursework examination.

3. So far as the first point is concerned, the Regulation for Ph.D. coursework has been brought on record, by way of Annexure-R-8/2 of the counter affidavit filed on behalf of the University. Regulation 9 of the University specifically provides thus:-

“9. Examination/Tests

There shall be two Internal assessment and one end semester examination. Out of the two Internal assessments, one shall be written test of 10 marks and another shall be seminar presentation on the allotted topic/literature of 10 marks review for both the papers separately. The remaining 80 marks for end semester examination shall be spread over five units.

The qualifying marks in the internal tests and end semester examination shall be not less than 50% in each paper.

Candidates who could not score the qualifying marks in any of the papers would



have to appear in the next semester. Candidates with less than 50% marks in any of the papers will not be allowed to continue the research.”

4. It is clear from the language used in Regulation 9 that there are two internal assessments and one end semester examination. Out of said two internal assessments, one is to be written test of 10 marks and another seminar presentation on the allotted topic of 10 marks. The remaining 80 marks is for end semester examination spread for five units. It is specifically prescribed that qualifying marks in the internal test and end semester examination shall not be less than 50 per cent in each paper. It further provides that candidates who do not score the qualifying marks in any of the papers, would have to appear in the next semester examination. Candidates with less than 50 per cent marks in any of the paper, shall not be allowed to continue the research.

5. In view of clear provision under the Regulation, a student has to score 50 per cent marks separately in two papers which the petitioners have admittedly not scored. The ground that in other department, violating the said provision the candidates have been declared ‘pass’, cannot be the basis for granting relief in this case, for the reason that this Court cannot



follow the illegality done by the authorities, rather the Court is required to follow the law as it stands.

6. On the question of re-evaluation of answer sheets, may attention has been drawn to second *proviso* to Section 29 of the Bihar State Universities Act, 1976 which confers upon Vice Chancellor power to order for re-evaluation of answer books. The petitioners are said to have approached the Vice Chancellor, seeking re-evaluation.

7. It will be open to the Vice Chancellor to consider the representations of the petitioners for re-evaluation of the answer sheets and if he satisfied that evaluation of answer book has not been fairly done, or evaluation has been done in violation of University Statutes, Regulations, Rules or Orders, he may consider issuing orders for re-evaluation of the answer book. The Court expects that if any decision is to be taken under Section 29 of the Act, the same should be taken within one month from the date of receipt/production of a copy of this order.

8. This writ application stands dispose of.

(Chakradhari Sharan Singh, J)

Ashish/-

U	✓	T	✓
---	---	---	---

