

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6114 of 2018**

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Ruchi Rachna wife of Birendra Kumar Sahani Resident of Mohalla -  
Telephone Campus, Girja Chowk, Purnea, Police Station - K. Hat, District -  
Purnea.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Higher Education, Old Secretariat, Bihar, Patna.
2. The B.N. Mandal University, Madhepura through its Vice Chancellor.
3. The Vice Chancellor, B.N. Mandal University, Madhepura.
4. The Registrar, B.N. Mandal University, Madhepura.
5. The Controller of Examination, B.N. Mandal University, Madhepura.
6. The Principal, Purnea Mahila College, Purnea.

... .. Respondents

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**Appearance :**

|                           |   |                                  |
|---------------------------|---|----------------------------------|
| For the Petitioner        | : | Mr. Lokesh Kumar Singh, Advocate |
| For the Respondent State: |   | Mr. Smt. Shilpa Singh, GA-12     |
| For the University        | : | Mr. Ritesh Kumar, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**ORAL JUDGMENT**

**Date : 14-08-2018**

The petitioner seeks direction commanding the respondent, B.N. Mandal University, Madhepura, to issue the mark-sheet of Bachelor of Computer Application (B.C.A.) Course for the Session 2010-13, as according to her, she has completed successfully the said course as a student of Purnea Mahila College, Purnea, under the said University.

I have heard Mr. Lokesh Kumar Singh, learned counsel for the petitioner, Mr. Ritesh Kumar, learned counsel appearing on behalf of B.N. Mandal University and Ms. Shilpa Singh, learned GA-2 for the State of Bihar.



Counter affidavit has been filed on behalf of the respondent University. I have perused the pleadings on record, as available in the writ application and the counter affidavit, based on which, it transpires that there is no dispute over certain facts, which are as under:-

(I) The petitioner was a student of Bachelor of Computer Application (B.C.A.) in Purnea Mahilla College, Purnea. She had appeared in 1<sup>st</sup> Semester Examination of 2010 held in April 2011, which she had cleared.

(II) In 2<sup>nd</sup> Semester Examination held in January, 2012, though she appeared, but she could not clear.

(III) She again appeared in 2<sup>nd</sup> Semester Examination held in the month of October, 2012, which she partly cleared, since she received zero marks in one of the papers. She again appeared in 2<sup>nd</sup> Semester Examination held in August, 2014, which she cleared. Simultaneously, she had appeared in 3<sup>rd</sup> Semester Examination of December, 2011 held in August 2012. It seems she could not clear 3<sup>rd</sup> Semester Examination though she was promoted under the Regulations.

(IV) She again appeared in 3<sup>rd</sup> Semester Examination of December 2012 in July, 2013, but she failed. She again appeared in 3<sup>rd</sup> Semester Examination held in 2015, which she again failed.



Thereafter, she appeared again in 3<sup>rd</sup> Semester held in the month of May, 2016 which she finally claims to have cleared.

(V) Since she was promoted, she appeared in 4<sup>th</sup> Semester Examination held in the month of March 2013 and was declared pass.

(VI) She appeared in 5<sup>th</sup> Semester of 2012 held in the month of July, 2013. Again she could not succeed and she appeared in the examination in the month of February, 2015. This time also, she could not clear the examination.

(VII) She took 5<sup>th</sup> Semester Examination again in May, 2016, which she cleared.

(VIII) The petitioner appeared in 6<sup>th</sup> Semester Examination held in the month of January, 2017, but her result has not been declared.

(IX) It is pleaded in the writ application itself that her result has been kept pending for want of marks of 3<sup>rd</sup> and 5<sup>th</sup> Semester.

(X) The details of petitioner's performance in 3<sup>rd</sup> Semester Examination has been given in the counter affidavit in tabular form, over which there is no dispute, which is being reproduced herein below: -

“B.C.A. IIIrd Semester Examination December 2011:-



| Subject                       | Theory    | Internal | Total |
|-------------------------------|-----------|----------|-------|
| Digital Computer Organization | <u>24</u> | 28       | 52    |
| Data Base Management System   | <u>15</u> | 28       | 43    |
| Operating System              | <u>26</u> | 28       | 54    |
| Computer Practical            | 96        |          |       |
| Grand Total                   | 245       |          |       |
| Result                        | Promoted  |          |       |

B.C.A. IIIrd Semester Examination December 2012:-

| Subject                       | Theory    | Internal | Total |
|-------------------------------|-----------|----------|-------|
| Digital Computer Organization | 35        | 28       | 63    |
| Data Base Management System   | 39        | 28       | 67    |
| Operating System              | <u>17</u> | 28       | 45    |
| Computer Practical            | 96        |          |       |
| Grand Total                   | 271       |          |       |
| Result                        | Promoted  |          |       |

B.C.A. IIIrd Semester Examination December 2013:-

| Subject          | Theory       | Internal | Total |
|------------------|--------------|----------|-------|
| Operating System | <u>15</u>    | 28       | 43    |
| Grand Total      | 43           |          |       |
| Result           | Disqualified |          |       |

B.C.A. IIIrd Semester Examination December 2014:-

| Subject          | Theory    | Internal | Total |
|------------------|-----------|----------|-------|
| Operating System | <u>43</u> | 28       | 71    |
| Grand Total      | 71        |          |       |
| Result           | Qualified |          |       |

It is the stand of the petitioner that since she has been allowed to take 5<sup>th</sup> and 6<sup>th</sup> Semester Examinations, the respondents should not raise any dispute over her clearing 3<sup>rd</sup> Semester



Examination. It is the case of the petitioner that once she was allowed to appear for subsequent semesters, there cannot be any justification for withholding her result. Reliance is being placed in this regard on a decision of this Court, rendered in case of ***Ranjeet Kumar v. V.C., J.P. University*** reported in **2006(3) PLJR 355**.

It is the stand of the University, on the other hand, that in terms of Clause IX(b) of the Ordinance for Admission and Regulation of Examination of Bachelor of Computer Application (BCA) of Regular Education Mode (Self-financing scheme) under B.N. Mandal University, Madhepura, if a candidate, having completed the course, fails to appear at the examination or fails to pass the examination or does not clear any paper, shall be allowed to appear at the subsequent examination in only that/those parts in which he/she has failed or absented himself/herself.

The said opportunity, the Regulation requires, shall be given for only two more examinations within a period not exceeding three years including the main examination held at the end of the session.

In that background, it is being contended that the petitioner appeared in B.C.A. 3<sup>rd</sup> Semester qualifying examination, firstly, in December, 2011, in which she had failed. She, thereafter, appeared in 3<sup>rd</sup> Semester Examination 2012 and 2013



also, in which she has failed. Since the opportunity of allowing to appear in the Examination could be only available for two more examinations, the petitioner could not have appeared 3<sup>rd</sup> Semester Examination of December 2014, fourth time.

It is the plea that in view of the language of the Ordinance, the petitioner could have availed only two more chances in addition to main 3<sup>rd</sup> Semester Examination of December, 2011. Since, the petitioner cleared the papers in fourth chance of 3<sup>rd</sup> Semester Examination of December 2014, for which she could not have been allowed under the Regulations, her result has been rightly withheld by the University. It has been contended that in view of the clear language of Clause IX (b) of the Ordinance, the petitioner could not have been allowed to appear fourth time in 3<sup>rd</sup> Semester Examination without being required to go through the course again.

In response to the plea, which has been taken on behalf of the petitioner, learned counsel for the University has submitted that this Court may not issue any direction for publication of result against the Regulations.

As has already been noticed, at the very outset, the facts are not at all in dispute. Clause IX(b) of the Ordinance is at the core of the issue and is, therefore, reproduced hereinbelow:



**“IX(b) A Candidate having completed the course fails to appear at the examination or fails to pass the examination or does not clear any paper shall be allowed to appear at the subsequent examinations in only that those parts and which he/she has failed or absented himself/herself on the payment of prescribed examination fee without being required to go through the course again. However, this opportunity shall be given in only two more examinations within a period not exceeding 3 years excluding the main examination held at the end of session.”**

The said provision has statutory force. Clause IX(c) of the Ordinance clearly stipulates that the result of final semester examination shall not be published till he/she appears and passes in the paper or has not completed for some reasons. It is true that the petitioner appeared in the 3<sup>rd</sup> Semester Examination fourth time; but evidently, contrary to Regulations without going through the course again. In such circumstances, she cannot be said to have cleared 3<sup>rd</sup> Semester Examination in accordance with law.

It would be useful to take note of a decision of this Court, rendered, on 24.04.2014, in case of *Mihir Kumar Jha Vs. Bhupendra Narayan Mandal University* (C.W.J.C. No. 21660 of 2013), in this regard, where the Court has held thus: -

**“Both the propositions, which have been relied upon by learned counsel for the petitioner, are not of universal application. The facts have to be also looked into too. There is consistent performance of the**



petitioner in not clearing the examination every time and then after a long time gap he took an attempt at the final year in 2011, which too he could not clear within the specified time-frame and had to sit for the examination again beyond the time-frame, indicated or laid down in regulation 7.1.

If the petitioner would have cleared his 3<sup>rd</sup> year examination, may be in the year 2011, there could have been arguable case for him, but since he has passed the 3<sup>rd</sup> year beyond the time-frame in the year 2012, giving any indulgence to the petitioner or direction to the respondents would amount to giving a complete go-bye to regulation, relating to examination as well as academic consistency and control of the university. Any indulgence to the petitioner at the High Court level will also become a referable point to all such students who are students more in name rather than in performance or deed.

The consistency with which petitioner has failed to clear his papers every year for the first two years and then even the 3<sup>rd</sup> year after two attempts, are enough for this Court not to exercise its extraordinary discretion by giving a go-bye to the regulations and rules of the university and destroy the academic standards of the university.”

In the background of absence of any dispute that the petitioner appeared fourth time after having failed in her three attempts to clear 3<sup>rd</sup> Semester Examination, this Court cannot issue a *mandamus* contrary to the provisions under the Ordinance. No relief, as sought in the present application, can be granted. The decision rendered by this Court in case of *Ranjeet Kumar v. V.C.*,



***J.P. University*** (supra), does not lay down a law that even if a student is allowed to appear for examination against the Regulations, his/her result shall be liable to be published because he/she was allowed to appear. Matter would have been different, had the petitioner appeared fourth time in the 3<sup>rd</sup> Semester Examination after going through the course again as stipulated in Clause IX(b) of the Ordinance.

Since I do not find any reason to interfere in the matter and any ground to issue *mandamus*, as being sought by the petitioner, this application is dismissed being devoid of merit.

It is indicated, however, that it will be open to the petitioner to take appropriate steps for clearing 3<sup>rd</sup> Semester Examination after going through the course again, if she intends to do so and in that circumstance the respondents shall consider her case in accordance with law.

There shall be no order as to costs.

**(Chakradhari Sharan Singh, J)**

Pawan/Ragini

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