

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21272 of 2018

Dr. C. P. Thakur College, Chechaul, Naubatpur through its Secretary, Shree Dinanath Singh Son of late Hridaya Narayan Singh Resident of Village-Chechaul, Police Station- Naubatpur in the district of Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Joint Secretary, Higher Education, Bihar, Patna.
4. The Magadh University, Bodh Gaya, Gaya through its Registrar.
5. The Vice- Chancellor, Magadh University, Bodh Gaya in the district of the Gaya.
6. The Registrar, Magadh University, Bodh Gaya in the district of Gaya.
7. The Examination Controller, Magadh University, Bodh Gaya in the district of Gaya.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Sunil Kumar, Advocate
For the Respondent State:	:	Mr. Umesh Narayan Dubey, AC to GP-27
For the University	:	Mr. Ritesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 02-11-2018 Heard learned counsel for the parties.

This writ application has been filed seeking direction to the State respondents to approve the affiliation, as granted by the Magadh University, Bodh Gaya, in favour of Dr. C.P.Thakur College, Chechaul, Naubatpur, Patna, for degree courses in Arts and Commerce. A direction to the Magadh University, Bodh Gaya, to extend the affiliation granted is also being sought.

It is the claim of the College that more than 2000 students are studying in the College in both the streams and,



therefore, the University should be directed to accept the fees and forms of such students who are studying. The petitioner is further seeking a direction to the University to allow the students of the College in Academic Sessions 2015-18, 2016-19 and 2017-20 (Part-I, Part-II and Part-III) to appear for the examination going to be held in near future.

This is to be noted that a single Judge of this Court, in C.W.J.C. No. 4660 of 2017 (*Dr. Ram Pramod Thakur and Anr. vs. The State of Bihar & Ors.*) and another analogous matter, had held in its decision dated 26.04.2018 that unless approval of affiliation is granted by the State Government under Section 21(2)(d) of the Bihar State Universities Act, 1976, an institution does not acquire the status of an affiliated college under the concerned University. The Court also held that in the absence of affiliation, such colleges could not allow admission. This Court, therefore, had directed the University not to allow the students of unaffiliated colleges to appear for the examination.

The matter was subsequently taken up by the Division Bench in Letters Patent Appeal. While upholding the interpretation of law in case of *Dr. Ram Pramod Thakur and Anr. vs. The State of Bihar & Ors.* (supra), the Division Bench, in a batch of Letters Patent Appeals in its decision dated



01.11.2018 rendered in L.P.A. No. 1288 of 2018 (*Arpana Kumari and Others Vs. The State of Bihar and Others*) and other analogous cases, taking into account peculiar facts and circumstances has passed following order:

4.1. Therefore, in the peculiar facts and circumstances of the case and the future of the thousands of students are at stake and the broad consensus between the learned counsel appearing on behalf of the respective parties recorded hereinabove, more particularly, learned counsel appearing on behalf of the concerned students and the respective institutions-writ petitioners, the present Letters Patent Appeals are disposed of in terms of the following:-

(i) That as agreed, the State Government/concerned Universities to accept the examination forms and fees of the concerned students of the respective institutions for the academic year 2017-18 pending decision by the State Government with respect to the concerned institutions in which the students have studied under Section 21(2) (d) of the Act and they may be permitted to appear in the ensuing examination for the academic year 2017-18. However, the concerned students shall not claim any equity solely on the basis of acceptance of their examination forms and fees and permitting them to appear in the examination.

(ii) That their acceptance of examination forms and fees and permitting them to appear in the ensuing examination for the academic year 2017-18 shall be subject to ultimate outcome/decision of the State



Government on the application pending for approval of affiliation with respect to the concerned institutions under Section 21(2) (d) of the Act. In case, the State Government grants approval of affiliation of the concerned institution for the academic year 2017-18, the result of the students of those institutions be declared. As agreed, in case, with respect to any of the institutions, the approval of affiliation is not granted by the State Government under Section 21(2) (d) of the Act for the academic year 2017- 18, in that case, the result of those students of those institutions may not be declared. However, it will be open for the concerned institutions to challenge the same before the appropriate Court/Forum, in case they are aggrieved by any decision of the State Government not granting the approval for the academic year 2017-18.

(iii) That the State Government is directed to finally decide the applications of the concerned institutions for approval for the academic year 2017-18 under Section 21(2) (d) of the Act at the earliest and within a period of six weeks from today and intimate the outcome of the same to the concerned institution. The State Government to take final decision in accordance with law and on its own merit and pass speaking order.

(iv) That the aforesaid order is passed in the peculiar facts and circumstances narrated hereinabove as it is reported that the applications of the concerned institutions submitted through the concerned Universities



for approval under Section 21(2) (d) of the Act is pending with the State Government and the present order be not cited as a precedent in future.

5. With the aforesaid directions, the present Letters Patent Appeals stand disposed of and the impugned judgments and orders passed by the learned Single Judge in respective writ petitions are modified to the aforesaid extent.

5.1. Before parting with the present order, we may caution the concerned institutions that in future they may not admit the students in the respective institutions without any approval by the State Government under Section 21(2) (d) of the Act and solely on the basis of the affiliation granted by the University and solely on the ground that the University has recommended to the State Government for approval. It is also further observed and directed that the State Government shall decide and dispose of the applications for approval of the concerned institutions under Section 21(2) (d) of the Act at the earliest and preferably before start of the academic year so that such an eventuality may not occur, provided the concerned institutions or the concerned University send the recommendation in the prescribed format well in time and much before the academic year starts.”

Mr. Sunil Kumar, learned counsel appearing on behalf of the petitioner in the present case contends that the petitioner’s case is covered by the directions issued by the Division Bench in the case of *Arpana Kumari and Others Vs. The State of Bihar and Others* (supra) as noted above. He accordingly submits that similar direction, as given by the Division Bench in



case of *Arpana Kumari and Others Vs. The State of Bihar and Others* (supra), be also issued in the present case.

What is expected from the State and its instrumentalities is that a direction issued by the Court should be uniformly applied in case of all similarly situated institutions. If the case of the petitioner is similarly circumstanced, the University is duty bound to give similar treatment to the College and its students. I would rather direct the University that in any other case, if the University finds that case of a particular institution is similar to the cases in which the Division Bench decision has been rendered i.e. *Arpana Kumari and Others Vs. The State of Bihar and Others* (supra), the University shall take appropriate decision accordingly, giving similar treatment to similarly situated institutions.

This writ application is accordingly disposed of with a direction to the Magadh University to examine whether case of the petitioner is similarly situated or not and allow the students of the College to appear in the ensuing examination, if their cases are covered by the said decision. At the same time, I observe that the State of Bihar and the University shall be obliged to strictly adhere to the directions issued by the Division Bench which have been quoted above.



This writ application stands disposed of.

(Chakradhari Sharan Singh, J)

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