

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16049 of 2018**

Nunuwati Jagdeo Singh College Through its In-charge Principal, Dilip Kumar Parwana, Son of Sri Sukhnanadan Singh, Resident of Village+Post-Baikathpur, P.S.- Khusrupur, Dist- Patna.

... .. Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Higher Education, Department of Education, Government of Bihar, Patna.
4. Magadh University, Bodhgaya, Gaya through its Registrar.
5. The Vice Chancellor, Magadh University, Bodhgaya, Gaya.
6. The Registrar, Magadh University, Bodhgaya, Gaya.
7. Patliputra University, Patna, through its Registrar.
8. The Vice Chancellor, Patliputra University, Patna.
9. The Registrar, Patliputra University, Patna.
10. The Controller of Examination, Magadh University, Bodh Gaya, Gaya.
11. The Inspector of Colleges (Arts & Commerce), Magadh University, Bodh Gaya, Gaya.

... .. Respondents

**Appearance :**

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|----------------------------|---|-------------------------------------------------------------------|
| For the Petitioner/s       | : | Mr. Tej Bahadur Singh, Sr. Advocate<br>Mr. Brisketu Sharan Pandey |
| For the Respondent/s       | : | Mr. Kameshwar Kumar, GP-17<br>Mr. Arbind Kumar, AC to GP-17       |
| For Magadh University      | : | Mr. Arabind Nath Pandey                                           |
| For Patliputra University: |   | Mr. Satyabir Bharti<br>Mr. Alok Chandra                           |

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

ORAL ORDER

4      26-09-2018                      The petitioner is a college, which, it is being claimed, was granted affiliation by the Magadh University for teaching upto Bachelor of Arts, Science and Commerce (Pass Course/Hons.) till 2014, duly approved by the State Government under Section 21 (2) (d) of the Bihar State Universities Act,



1976. For the subsequent sessions, i.e. 2014-17, upon an inspection conducted by the Magadh University, the decision to grant the said college affiliation for the said Session 2014-17 was taken by the University for the approval of the State Government under the aforesaid Section 21(2)(d) of the Act, the University had entered into some correspondence with the State Government. The Magadh University has been bifurcated with creation of a new Patliputra University at Patna. The present college now falls within the territorial jurisdiction of the Patliputra University. Subsequently, the State Government, through letter dated 05.09.2018, has communicated refusal to approve affiliation for the Session 2014-17.

2. In the background of the aforesaid facts, the petitioner is seeking following relief:-

***“1. That the petitioner is invoking the writ jurisdiction of this Hon’ble Court for issuance of appropriate writ/writs, order/orders, direction/directions commanding upon the respondent University/authorities for the following reliefs:-***

***1) For direction upon respondents Magadh University and the state authorities to consider and grant affiliation for Arts, Science and Commerce (Pass Course/Hons) course for year 2017-2018 as also the permanent affiliation for the above course in view of the fact that way back in 2007, 2014 inspections***



*were carried out by the representatives of Magadh University and recommendation for granting permanent affiliation was made through the inspection report.*

*ii) Further for direction upon respondents Patliputra University and the state authorities to consider and grant permanent affiliation for Arts, Science and Commerce (Pass Course/Hons), course from session 2018-19 and onwards.*

*iii) For direction upon the Magadh University to accept the forms and fees by the students of Arts, Science and Commerce (Pass course/Hons), who have been admitted during the affiliation granted for the session 2014-17, (for which the bank draft and the application forms have already been deposited/filed before the concerned representative of the Magadh University, Bodh Gaya, Gaya) and permit them to appear in their respective annual examination for the session 2017-18 by issuing them registration number and the Admit card accordingly.*

*iv) For any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”*

3. In addition, the petitioner by way of amendment to I.A. No. 7419 of 2018, has sought for quashing of the letter dated 05.09.2018, issued by the State Government refusing to grant approval.

4. Mr. Tej Bahadur Singh, learned senior counsel



appearing on behalf of the petitioner, has drawn my attention to the impugned letter dated 05.09.2018 to submit that the core grounds mentioned in the letter cannot be said to be justifiable grounds for refusal to grant affiliation under Section 21 (2) (d) of the Act.

5. Mr. Singh has submitted that the State Government unnecessarily delayed the matter while sitting tight over the recommendation of the University to grant approval of affiliation and the impugned letter has been issued in haste in view of the pendency of the present proceeding and observation made by this Court at the time of hearing.

6. What is not in dispute is that the decision of the University to grant affiliation in favour of the college did not have the approval of the State Government, which is mandatory, as has been held by this Court in case of ***Dr. Ram Pramod Thakur and Another Vs. The State of Bihar and Others*** (C.W.J.C. No. 4660 of 2017) and analogous case decided on 26.04.2018 and ***National Institute of Health Education and Research Vs. The State of Bihar and Others*** (C.W.J.C. No. 16553 of 2017) decided on 16.05.2018. In the absence of approval of affiliation, it cannot be said that the college enjoyed status of an affiliated college.



7. The direction, which the petitioner is seeking upon the respondent Magadh University, is to consider and grant affiliation for the aforesaid courses for Session 2017-18 will not arise for the reason that there would be no question of grant of retrospective affiliation since it shall not serve any purpose.

8. In the absence of affiliation, an affiliated college is restrained from admitting students. When, admittedly, the college did not have the affiliation in the year 2017-18, it can be safely presumed that the college did not allow any admission for the said session and if the college allowed any, it did so contrary to the statutory prescription. It is to be noted that this plea for grant of affiliation in respect of 2017-18 Session is being taken since according to the petitioner, the predecessor body, i.e. the Magadh University, was required to take decision on that and Patliputra University is insisting to seek affiliation for the said session first before their case for affiliation for the Session 2018 and onwards is to be considered.

9. In my view, the successor body, i.e. Patliputra University, cannot insist upon the college to seek and get affiliation for the said Session 2017-18 as a condition precedent for consideration of grant of affiliation for subsequent session, i.e. 2018-19. It has been stated by Mr. Singh, learned Senior



Counsel, that the petitioner has applied for grant of affiliation before the Patliputra University before the cut off date as prescribed by this Court in case of ***Dr. Ram Pramod Thakur*** (supra).

10. Without going into other aspects of the matter, which have been raised in the writ application, it is being disposed of with a direction to the respondents to proceed strictly in accordance with the time frame laid down for consideration of an application for affiliation, in paragraph 11 of the decision in case of ***Dr. Ram Pramod Thakur*** (supra).

11. According to the petitioner, grounds mentioned in the impugned order dated 05.09.2018, are not valid and deficiencies, which have been pointed out do not exist. It has been argued that the points mentioned in the impugned letter dated 05.09.2018 may prejudice the decision of the University also while considering the petitioner's case for grant of affiliation.

12. It is clarified that this Court has not gone into the merits of the deficiencies pointed out in the letter dated 05.09.2018 and such findings shall not prejudice any authority, which are required to consider the petitioner's case for grant of affiliation in the light of the present order. The petitioner shall



be at liberty to satisfy the competent authority that the deficiencies so pointed out do not exist.

13. This application stands disposed of.

**(Chakradhari Sharan Singh, J)**

Pawan/Ragini

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