

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4605 of 2018

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Sima Bharti Daughter of Kamal Kishore Roy Resident of Village - Naharwar,
P.S. - Mahisi, P.O. - Maina Prem Via Mahisi, District - Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. B.N. Mandal University Madhepura through the Registrar.
4. Vice-Chancellor, B.N. Mandal University, Madhepura.
5. The Registrar, B.N. Mandal University, Madhepura.
6. Controller of Examination, B.N. Mandal University, Madhepura.
7. Principal, Banwari Shankar College, Simraha, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Uday Bhan Roy Mr. Baleshwar Kamat
For the Respondent/s	:	Mr. Prabhakar Jha- Gp27 Mr. Shankar Kumar Thakur AC to Gp27
For the University	:	Anand Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 17-05-2018 Heard learned counsel for the parties.

2. This writ application has been filed, seeking direction to B.N. Mandal University, Madhepura, to publish final result of the petitioner of having passed B.Sc. with Honours (Zoology), holding that she had passed B.Sc. Part-I examination with Honours (Zoology). An alternative prayer has been made seeking direction to the University to hold a fresh examination of the petitioner of B.Sc. Part-I (Zoology) and allow the petitioner to appear in the said examination.

3. The facts of the case are short and not at all in



dispute.

4. The petitioner was student of B.Sc. Honours (Zoology) in Banwari Shankar College, Simraha, Saharsa, which is a three year degree course. Part-I examination of the said course was held in June, 2013. The petitioner admittedly secured 55 out of 150 marks in theory paper (Zoology) and 35 out of 50 marks in practical examination. It is the case of the petitioner that since sum-total of the marks secured by her in theory examination i.e. 55 and practical examination i.e. 35, is 90 out of 200 marks, thus having secured 45 per cent in aggregate, she had passed the Honours Part-I examination.

5. This is also not in dispute that the petitioner had not appeared in Hindi and English compulsory papers. She was promoted to Part-II. While pursuing her Part-II course, she cleared said compulsory papers. She appeared in B.Sc. Honours Part-II examination held in the year 2015, in which she passed. A mark-sheet showing petitioner to have passed B.Sc. Honours Part-II examination has been brought on record by way of Annexures-3 & 3/1 of the writ application. It is further case of the petitioner that she was allowed to appear B.Sc. Honours Part-III examination held in the year 2016. Her result has, however, been withheld. In the background of the aforesaid



facts, the present writ application has been filed, seeking direction as noted above.

6. This writ application was filed on 13.03.2017. It transpires that after filing of the writ application, the result of the petitioner has been published, showing her 'fail'.

7. A counter affidavit has been filed on behalf of the University and relying on the examination Regulation applicable in the University, it is the plea of the University that for passing Honors theory paper, a candidate is required to score 67 out of 150 (45%) and practical paper, 23 out 50. Since the petitioner could not score 67 out of 150 in theory paper in Part-I Honours examination, rather she had scored 55 out of 150, she had failed in Part-I examination. It is their further case that the petitioner was promoted to Part-II in accordance under the said examination Regulation. It was open to the petitioner to clear her Part-I paper subsequently in three consecutive examinations, which she did not do. It is specific case of the University that the petitioner could not have been promoted to Part-III of the course, she having not been able to clear B.Sc. Part-I (Hons.) examination.

8. Learned counsel appearing on behalf of the petitioner has submitted that since the petitioner was allowed to



appear for Part-III examination, the University has an obligation to publish her result treating her to have cleared Part-I examination also. In the alternative, he argues that taking sympathetic view of the matter, the petitioner should be allowed to clear only Part-I examination for the purpose of clearing her B.Sc. (Honours course). It is his contention that the petitioner cannot be made to suffer because of the laches on the part of the University.

9. In order to appreciate the rival contentions on behalf of the parties, I must take note of Clause 14.1 of the examination Regulation, which has been brought on record by way of Annexure-A to the counter affidavit filed on behalf of the University, which reads thus:-

“14.1. In order to pass the B.Sc.(Honours) Part I or Part-II examination a candidate must obtain not less than 45% of the total marks in the Honours subject and 33% of the total marks in each of the other subjects of the examination.

Provided that in subjects involving practical examination he must obtain (i) in case of an Honours subject, not less than 67 marks in Paper I and II taken together and 23 marks in the



practical portion of these papers, or not less than 67 marks in Paper III and IV taken together and 23 marks in the practical portion of these papers, or not less than 135 marks in Paper V, VI and VII taken together and 45 marks in Paper VIII, as the case may be; and (iii) in case of a subsidiary subject not less than 23 marks in the theory portion & 10 marks in the practical portion of each of the papers.

Provided further that if he has offered two languages in Composition he must obtain at least 15 marks in each language and 33 marks in the paper as a whole.”

10. The language of the Regulation 14.1 is clear and it provides that in subjects involving practical examination, a candidate must obtain in case of an Honours subjects, not less than 67 marks in papers one and two taken together and 23 marks in the practical portion of these papers. The petitioner admittedly scored 55 marks in papers one and two. She, therefore, could not have been declared to have passed Part-I examination. I may now come Regulation 7.1 of the said Regulations which has been produced by the learned counsel



appearing on behalf of the University, which reads thus:-

“7.1. There shall be University examination at the end of the first, the second and the third years of study to be known respectively as the B.Sc. (General/Honours) Part I, Part II and Part III examination. No student shall be admitted to the B.Sc. (General) or B.Sc. (Honours) Part II class unless he has passed the B.Sc. (General) or B.Sc. (Honours) Part I examination and to the Part III class unless he has passed the part II examination.

Provided that if a student fails in, or fails to appear at, not more than two subjects at the B.Sc. (General/Honours) Part I/II examination he shall be promoted to the next higher class but he shall not be eligible for admission to the B.Sc. (General) or B.Sc. (Honours) Part III Class unless he has passed the B.Sc. (General) or B.Sc. (Honours) Part I examination in the subject/subjects concerned.

Provided further that this facility for appearing in such carry over subject/subjects shall be available to a student at not more than three consecutive examinations.”

11. A bare reading of Regulation 7.1 makes it clear that no student can be admitted to B.Sc. Honours Part-II class unless he/she has passed B.Sc. Honours Part-I examination and to the Part-III class unless he has passed the Part-II



examination. First proviso to the said Regulation provides, if a student fails in not more than two subjects in B.Sc. Honours Part-I and Part-II examination, he shall be promoted to next higher class but he shall not be eligible for admission to the B.Sc. Part-III class, unless he has passed B.Sc. Honours Part-I examination, in the subject concerned. The second proviso to Regulation 7.1 prescribes that the facility of appearing in carry over subjects shall be available to a student at not more than three consecutive examinations. A conjoint reading of Regulations 14.1 and 7.1 makes it clear that the petitioner had failed in Part-I examination. She was promoted to Part-II in accordance with the first proviso to Regulation 7.1. She had option to clear Part-I examination, in which she had failed. In view of clear provision in the Regulations, in no case she could have been promoted to Part-III. There is no document which has been brought on record to show that she was in fact promoted to Part-III. Reliance has been placed on behalf of the petitioner to Annexure-3/1 of the writ application which is the petitioner's mark-sheet of B.Sc. Honours Part-II examination. In the result, she was declared to have passed with Honours. That would not mean that she was entitled to be promoted to Part-III. She had passed Part-II examination



only without clearing her Part-I examination. The petitioner, therefore, could not have been promoted to Part-III course. The plea that since the petitioner was allowed to appear in Part-III examination and, therefore, she should be declared to have passed is not at all convincing.

12. The relief as sought in the present writ application, cannot be allowed.

13. This writ application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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