

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.682 of 2018

In

Civil Writ Jurisdiction Case No.18174 of 2017

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1. Magadh University, Bodhgaya, Through Its Registrar.
 2. The Vice-Chancellor, Magadh University, Bodhgaya, Gaya.
 3. The Registrar, Magadh University, Bodhgaya Gaya,
 4. The Inspector of Colleges (Science) Magadh University, Bodhgaya, Gaya.

... .. Appellant/s

Versus

1. R. P. Sharma, Institute of Technology Through Its Registrar, Brajesh Kumar Chaudhary, S/o Sri Arvind Prasad Chaudhary, Resident of Village-Garhiya, P.O.-Garhiya, P.S.-Chautham, District-Khagaria.
2. Maulana Azad College of Engineering and Technology, Anisabad, Patna through its Secretary Safdar Ali Khan, S/o-Late Nawab Md. Jabir Ali Khan, Resident of 69/5, T.N. Banarjee Road, Chhajubagh, P.O.-GPO Patna, P.S.-Kotwali, District-Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Lalit Kishore, Sr. Adv & Mr. Ritesh Kumar, Adv
For the Respondents : Mr. P.K. Shahi, Sr. Adv, Mr. Birsketu Sharan Pandey, Adv and Mr. Prince Kumar Mishra, Adv

CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 05-09-2018

Heard learned counsel for the parties.

2. This Letters Patent Appeal has been preferred against the order dated 30.04.2018, passed by a learned Single Judge of this Hon'ble Court in CWJC NO. 18714 of 2017 by which writ petition was allowed with a direction to the appellant-University to act strictly in accordance with the decision of the Supreme Court in the case of Rungta Engineering College within a period of one



month from the date of receipt/production of a copy of the order passed by this Court.

3. It was further observed by the learned Single Judge that considering the manner in which the University has dealt with the case of the respondents in considering grant of affiliation in utter disregard to the judicial pronouncements and statutory provisions coupled with the fact that a false plea has been taken by the University to justify their action and a cost of Rs. 5 Lacs was imposed upon the appellants. It was further directed that the order passed by this Court be communicated to the Chancellor of the University of Bihar for the purpose of examining the question of initiation of action against the functionaries of the University as action of the University appears to be malafide.

4. Briefly stated, the facts of the case is that respondent had filed a writ petition being CWJC No. 18714 of 2017 for quashing the decision dated 05.12.2017 taken by the affiliation committee by which it was decided to inspect the College of respondent upon deposition of inspection fee of Rs. 5 Lacs for extending the affiliation of the courses run by the respondent-institution with a further prayer to extend the affiliation of courses for the year 2017-18 for which approval has already been granted by the All India Council for Technical Education, New Delhi vide



its letter dated 30.03.2017. The respondent-institution has further prayed for a direction to the appellant-University not to charge inspection fee for the inspection of the Colleges of the respondent-institution and extend the affiliation of the courses on the basis of approvals and conditions laid down by the All India Council for Technical Education, New Delhi. Further prayer was for directing the appellant-University to respect their own decision taken on 31.01.2001 by which it was decided by the University that the affiliation of respondent-institution shall be extended for subsequent years subject to the conditions of approval by All India Council for Technical Education, New Delhi and also to honour the time schedule prescribed by AICTE, New Delhi.

5. The appellant had taken stand before the Writ Court that although the affiliation of the respondent-institution were extended by AICTE, New Delhi, but as per Section 11 of the AICTE Act, it was incumbent upon the AICTE to inform the appellant-university regarding the inspection of technical institution but no such information was given to the University regarding extension of affiliation of the respondent-institution.

6. It was further pleaded by the appellant-University that even as per AICTE Act the University has not been restrained from conducting the inspection and the inspection of the institute



is mandatory regarding infrastructure of the institution, quality of education provided by the institute and the faculty etc., and if any shortcoming will be found same shall be brought to the notice of the AICTE.

7. It was further submitted by the appellant-university before the writ court that after extension of the affiliation by the AICTE to the petitioner-institution for the session of 2017-18 the matter for extension of affiliation at University level was placed before the Affiliation Committee and new teaching Programme Committee of the University in its meeting dated 05.12.2017 which decided that the matter of affiliation would be considered after submission of application form in prescribed format along with inspection fee of Rs. 5 Lacs and the same was approved by the Syndicate in its meeting dated 07.12.2017.

8. During pendency of writ petition, the learned Single Judge by interim order directed the Vice Chancellor of the University to take a decision in the matter of inspection and extension of affiliation with regard to petitioner institution in light of judgment and order of Hon'ble Supreme Court passed in **Rungta Engineering College and Anr Vs. Chhatisgarh Swami Vivekananda Technical University and Anr** since reported in **2014 (4) PLJR SC 431**, and pursuant to said direction the Vice



Chancellor by order dated 25.01.2018 reiterated the earlier decision of University and thereafter respondent by way of amendment petition sought quashing of the order dated 25.01.2018 passed by Vice Chancellor, Magadh University.

9. After hearing the parties and considering the materials available on record and also taking into account the previous orders passed by this Court on the issue raised in the writ petition which is no more *res integra* and stands covered by earlier pronouncements of this Court as well as decision of Supreme Court as referred above and accordingly the Single Judge allowed the writ petition of respondent-institution and we do not find any error in the order passed by the learned Single Judge which requires any interference and as such the Letters Patent Appeal filed by the University is dismissed, however, learned senior counsel appearing on behalf of University has earnestly pleaded that the cost of Rs. 5 Lacs as imposed on the University in para 22 of the order passed by the learned Single Judge as well as the direction issued by learned Single Judge in para 23 and 24 in the order for a communication of the order to the Chancellor of the Universities of Bihar for the purpose of examining the question of action against the functionaries of the University as the Court is *prima facie* satisfied that the action on behalf of University



appears to be malafide and it has been submitted by the senior counsel appearing on behalf of appellant-University the University acted in a bonafide manner as per their own understanding and there was no ulterior motive or intention to over reach the order passed by this Court or to undermine the authority of this Court.

10. Considering the prayer made by the learned senior counsel appearing on behalf of Magadh University, this Court without interfering on the merits of the case as decided by learned Single Judge partly modifies the order as contained in paragraph nos. 22, 23 and 24 and set aside the direction as contained in paragraph nos. 22, 23, and 24 of the order and order passed by the learned Single Judge is modified to that extent.

The Letters Patent Appeal stands dismissed subject to modification as stated above.

(Dr. Ravi Ranjan, J)

(S. Kumar, J)

ranjan/-

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