

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13882 of 2017

Dr. Rayees Azam Evening College, Biharsharif, Nalanda through its Secretary
Tauhid Kazmi Son of Imamuddin, Resident of Darul Sharaf, Mohalla-
Khanquah, Police Station-Laheri, District-Nalanda.

... .. Petitioner/s

Versus

1. Magadh University Through Its Registrar, Bodh Gaya, Gaya.
2. The Vice Chancellor of the Magadh University, Bodh Gaya, Gaya.
3. The Registrar, Magadh University, Bodh Gaya, Gaya.
4. The Examination Controller, Magadh University, Bodh Gaya, Gaya.
5. The State of Bihar through Principal Secretary Department of Education, Govt. of Bihar, Patna.
6. The Deputy Secretary, Department of Education, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sarvadeo Singh Mr. Md. Anjum Akhter
For the M U	:	Mr. Ritesh Kumar
For the Respondent/s	:	Mr. S.C. Mishra-Sc16 Mr. Samir Kumar, AC to SC-16

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

12 05-07-2018

Heard learned counsel for the parties.

2. There is no dispute that the petitioning college i.e. Dr. Rayees Azam Evening College, Biharsharif, Nalanda, (hereinafter referred to as 'the college') did not have affiliation with the erstwhile Magadh University, Bodh Gaya. The college is not affiliated to any of the Universities.

3. This writ application has been filed seeking quashing of the letter dated 30.03.2017, issued under the signature of Deputy Secretary, Department of Education,



Government of Bihar, whereby the State Government has communicated the disapproval of the recommendation for grant of extension of affiliation to the college. Consequent upon issuance of the said letter, dated 30.03.2017, the Magadh University had issued a letter, dated 03.04.2017, refusing to extend affiliation to the college.

4. Be it noted that under Section 21(2)(d) of the Bihar State Universities Act, 1976, (hereinafter referred to as 'the Act') approval of the State Government is a condition precedent of grant of affiliation in favour of an institution by a University to take effect. At no point of time, there was any approval granted by the State Government of the affiliation in respect of the present college. In that background, it cannot be said that this college had affiliated status at any point of time, in view of Section 21(2)(d) of the Act. The University had recommended to the State Government for approval of affiliation in respect of the college which has been rejected by the impugned order, as has been noted above.

5. Learned counsel, appearing on behalf of the petitioner, assails the said order of the State Government communicated through impugned letter dated 30.03.2017 on the ground of same being non-speaking and unreasoned. I find



force in the said submission being made on behalf of the petitioner. The letter does not indicate specific the reasons for refusal by the State Government for grant of approval of affiliation. The said letter, dated 30.03.2017, therefore, cannot be allowed to sustain. The impugned letter dated 30.03.2017 and consequential communication dated 03.04.2017, are set aside.

6. The State Government will be required to reconsider the case of the petitioning college for grant of approval. It will also be open to the petitioner to take steps afresh for grant of affiliation, in accordance with law.

7. There is yet another relief, which has been sought in the writ application. The petitioner has sought a direction for acceptance of examination fees and forms of the students by the University. Since the question of affiliation was not addressed nor raised before this Court when the matter was taken up on 22.09.2017 and the only objection which was being raised was in respect of production of Aadhar Card in support of identity of the students for filling up the forms, the Court by an order, dated 22.09.2017 had directed as follows:-

“This writ application has been filed 18.09.2017. In view of the nature of interim order passed in CWJC No. 9773 of 2017, it is



directed that if it is not impermissible, the University shall accept the examination forms without insisting on production of Aadhar Cards.

It is indicated that rest of the matter shall be considered at the time of final disposal of the cases on the question of status of the College as affiliated Institution of Magadh University, Bodh Gaya.”

8. In compliance of the said order, the students are said to have appeared in the examination. It is evident from the interim order that the question of status of the college as affiliated institution was yet to be considered.

9. As has been discussed above, the college is not affiliated college. In a recent decision in case of **Dr. Jagarnath Mishra Degree Mahavidyalaya, Mau Vs. Vice Chancellor Magadh University, Bodh Gaya** (CWJC No. 518 of 2018) and another analogous case, this Court after examining various provisions under the Act, has held that in the absence of affiliation, the college could not have undertaken the process of admission of students. It has also been held that unaffiliated college had no status at all under the Act and it does not have any relationship with the University. In such circumstance, this Court cannot issue a direction for publication of result of the



students of the college since the students could not have been admitted by the college at all.

10. Mr. Sarvadeo Singh, learned counsel for the petitioner, informs this Court that the college has taken a fresh steps for grant of affiliation, for which, inspection fee etc. has already been deposited with the Magadh University. Patliputra University has been carved out from Magadh University by amendment in the Act, and the college in question is now falls within the territorial jurisdiction of Patliputra University.

11. Learned counsel, appearing on behalf of the Magadh University, states that if it is found that the inspection fee has been deposited, the same shall be immediately transferred to Patliputra University.

12. This application is, accordingly, disposed of with the observation that respondents shall consider the case of the petitioner for grant of affiliation in accordance with law, as expeditiously as possible.

(Chakradhari Sharan Singh, J)

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