

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7738 of 2017

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Surya Prakash Singh, son of Brij Bihari Singh, resident of Village- Tilai,
Police Station- Nokha, District- Rohtas (Sasaram).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Raj Bhawan, Patna, Education Department.
2. The Vice Chancellor, Veer Kunwar Singh University, Ara.
3. The Registrar, Veer Kunwar Singh University, Ara.
4. The Controller of Examination, Veer Kunwar Singh University, Ara.
5. The Director, Department of Bio-Technology, Veer Kunwar Singh University, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Kumar Singh
For the state	:	Mr. Umesh Narayan Dubey, AC to GP 27
For the University	:	Mr. Arbind Nath Pandey

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

- 3 07-05-2018 The petitioner is seeking direction to the Vice-Chancellor, Veer Kunwar Singh University, Ara, to issue certificate of having passed M. Sc. (Bio-Technology), on the basis of examination of the said course, held by the University, in the month of November, 2010. He claims that he had passed the said examination of Sessions 2008-10, with first division. The mark-sheet issued by the University has been brought on record by way of Annexure-4 series. It has been stated that responding to the brochure, issued by the said University, for admission to various courses, including M. Sc. (Bio-Technology), the petitioner had applied and was given admission by the University to the said course. For pursuing the



said course, he had deposited following amount:-

Date	Amount
28.08.2009	Rs. 17,960/-
26.02.2010	Rs. 9,000/-
07.09.2010	Rs. 8,960/-
TOTAL	Rs. 35,920/-

It is the petitioner's case that the petitioner has a legal right to receive and the University has corresponding obligation to issue the degree of having passed the said course of M. Sc. (Bio-Technology).

A counter affidavit has been filed on behalf of the University. It has been stated therein that the Draft Ordinance and Regulation for the said course was not approved by the Chancellor, Universities of Bihar. It is also stated that the officials of the University learnt about the present matter recently, whereafter it was placed before the Examination Board, in its meeting held on 10.02.2018. It is their case that it has been resolved to send the Draft Ordinance and Regulation to the Chancellor for approval after recommendation of the Statutory Bodies of the University, i.e. Academic Council, Syndicate and Senate,

There is, thus, no dispute about the fact that there was no regulation prevailing in the University for conducting the



course of M. Sc. (Bio-Technology).

This position is not being disputed by learned Counsel for the petitioner. He has, however, relied on Section 6 of the Bihar State Universities Act, 1976, to contend that the University had the competence to undertake any course of teaching. He submits that the petitioner, in any event, cannot be blamed as he believed on the representation made by a statutory body, like the University, and, therefore, on mere technicality of absence of ordinance/regulation, the petitioner should not be denied of his fruits after completion of the course, in question.

Learned Counsel appearing on behalf of the University, on the other hand, has seriously opposed the prayer made on behalf of the petitioner and has submitted that in the absence of ordinance/regulation for conducting the course, the petitioner cannot be given his degree by the University.

I have carefully gone through Section 6 of the Bihar State Universities Act, 1976. It states that all recognised teaching in connection with University courses shall be conducted through the Colleges and through departments maintained by the University, subject to general control of the Vice-Chancellor.

The language of Section 6 is absolutely clear and it



says that such recognized teaching can be conducted in accordance with a syllabus as prescribed by the Regulations. It is the statutory requirement, thus, that there has to be syllabus prescribed by the 'Regulations' for conducting a recognized teaching in the University. Sub-section (2) of Section 6 however lays down that the authorities responsible for organizing such teaching shall be prescribed by the Statutes. Sub-Section (3) states that the courses and curricula shall be prescribed by the Regulations.

The above are apparently mandatory requirement, which cannot be tinkered with inasmuch as for conducting a recognized teaching in a University, there has to be the syllabus in accordance with the Regulations framed under the Act.

Sections 37, 38 and 39 provide for the manner in which the Ordinance and Regulations can be made.

A bare reading of Section 38 of the Act will indicate that an Ordinance is to be made by the Syndicate under Section 37 of the Act, which has to be thereafter submitted to the Senate. The Senate is obliged, thereafter, to consider the Ordinance in its next meeting and either reject or approve the Ordinance by a majority of the members of the Senate present. It further prescribes that the Ordinance so approved by the Senate has to



be submitted to the Chancellor of the Universities of Bihar, who may declare that he assents to the Ordinance.

In clear language, it has been stated in sub-Section (3) of Section 38 of the Act that an Ordinance shall have no validity unless it has been assented to by the Chancellor under sub-section (2).

Similarly, in respect of Regulations, it has been prescribed in Section 39 (1) (ii) of the Act that the same shall have effect from the date on which it has been assented to by the Chancellor on being passed by the Senate with or without amendment.

In the absence of Ordinance/Regulations, in my view, it was not competent for the University to have conducted the course of M. Sc. (Bio-Technology). There is nothing to show whether the syllabus of the course was duly approved by the competent authority nor any material is there to indicate whether the teachers were qualified and appointed for the purpose of conducting the said course.

In the background of what has been discussed above, no relief as sought in the present case can be granted.

It is, however, indicated that this order will not be an impediment if the Chancellor, Universities of Bihar, intends to



take any decision on framing of Regulations with respect to the course, in question.

No relief can, therefore, be granted to the petitioner in the present facts and circumstances.

Before I part with, I must not loose sight of the sufferings which the petitioner must have undergone, because of apparent lapse on the part of the University as noted above. The University apparently acted beyond its jurisdiction and for a purpose about which the Court does not have any clue. In that background, I consider it to be a fit case for imposition of exemplary cost and payment of some amount by way of compensation to the petitioner.

I, accordingly, pass the following orders:-

(i) The Registrar of the University is directed to refund the entire amount received from the petitioner against fess etc. for the course, in question, with simple interest at the rate of 15 per cent per annum from the date of payment of fees by the petitioner till refund is made. The payment must be made within three months from the date of receipt/production of a copy of this order.

(ii) In addition, the petitioner deserves to be compensated for his suffering because of the gross lapse on the



part of the University. Though no definite formula for quantification of the amount of compensation can be worked out, in my view, interest of justice will be subserved if the University is directed to pay an amount of Rs. 2,00,000/- by way of compensation. The Registrar of the University shall ensure payment of the said amount within the same period of three months.

This application is, accordingly, disposed of with aforesaid directions, with a cost of Rs. 10,000/- to be paid to the petitioner by the Registrar of the University within the same period of three months.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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