

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13143 of 2017

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1. Vinay Krishna Tiwary, Son of Sri Kanhaiya Tiwary, Resident of Vijay Bhawan, Gulbi Ghat Road, P.O.- Mahendru, P.S.- Sultanganj, District-Patna.

.... Petitioner/s

Versus

1. The Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur through its Registrar.
2. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
3. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
4. The Bihar State Homeopathic Medicine Board, through its Registrar, Patna.
5. The Central Homeopathic Council through its Registrar, New Delhi.
6. The B.N. Mandal Homeopathic Medical College and Hospital, Saharsa through its Principal.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan Singh
For the B.R.A University : Mr. Arbind Nath Pandey

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

8 18-06-2018 The writ application was filed for issuance of provisional certificate of having passed by Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur. The matter was taken up earlier on 08.05.2018 when following order was passed:

“The petitioner’s result of BHMS final examination, has been withheld by the University, which has made the petitioner file the present writ application.

2. In the counter affidavit, a plea has been taken on behalf of the University that the University provides



three chances for clearing each part of the examination. It has been asserted that as per the Regulation applicable for Bachelor in Homeopathic Medicine and Surgery Course, no student can be given more than three chances to clear any examination. This stand has been taken with reference to second part of BHMS examination of the petitioner as it is being asserted that the petitioner could not clear all papers of second part of BHMS examination of the petitioner as it is being asserted that the petitioner could not clear all papers of second part of BHMS examination in three chances.

3. A reply to the said counter affidavit has been filed through which, Homeopathy (degree course) BHMS Regulation, 1983, as amended up to 2005, has been brought on record by way of annexure-8. The provisions under the heading “results and readmission to examination” under the said Regulation postulates *inter alia* that the candidates who have passed in one or more subjects need not appear in that subject or those subjects again in the subsequent examination, if the candidate passes the whole examination, within four chances including original examination. It is the plea of the petitioner, accordingly, that since he has cleared all the



papers in four chances, the action of the University to withhold the result on the ground that only three chances are allowed is contrary to the Regulation and arbitrary.

4. *Prima facie*, the Court finds substance in the stand taken on behalf of the petitioner. If the case of the petitioner is found to be correct on that count, the Court will consider the *bona fide* of the University in making statement in paragraph 9 of the counter affidavit.

5. As requested on behalf of the University, list this case under the same heading, on 15th May, 2018.”

A supplementary affidavit has been filed on behalf of the petitioner stating therein that the University has issued Provisional Certificate.

The grievance of the petitioner, with the issuance of the Provisional Certificate, stands redressed.

This application is disposed of as having become infructuous.

(Chakradhari Sharan Singh, J.)

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