

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17195 of 2018**

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Aman Kumar Tiwari Son of Chandranath Tiwari R/o Bherdhari, Rupnagar,  
Ward No. 37, District- Saharsa.

... .. Petitioner

Versus

1. The Vice Chancellor, B. N. Mandal University , Laloo Nagar, Madhepura.
2. The Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.
3. The Deputy Registrar (Exams), B.N. Mandal University, Laloo Nagar, Madhepura.
4. The Controller of Examination, B.N. Mandal University, Laloo Nagar, Madhepura.
5. The Principal , R.M. College, Saharsa.
6. The Director (B.C.A. Course), R.M. College, Saharsa.
7. Coordinator, B.C.A. Course, R.M. College, Saharsa.

... .. Respondents

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**Appearance :**

For the Petitioner : Mr. Siyaram Pandey  
For the Respondents : Mr. Ritesh Kumar

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

ORAL ORDER

4      12-09-2018                      The petitioner seeks a direction to the respondents to allow him to fill-up examination form of 6<sup>th</sup> Semester of Bachelor of Computer Application (BCA) under B.N. Mandal University, Laloo Nagar, Madhepura.

The facts are not at all in dispute. The petitioner was student of R.N. College, Saharsa under B.N. Mandal University, Laloo Nagar, Madhepura. He had passed 1<sup>st</sup> Semester examination in 2012 and 2<sup>nd</sup> Semester examination in 2013. Admittedly, he did not appear in the 3<sup>rd</sup> Semester examination. He appeared in 3<sup>rd</sup> Semester examination in 2017. He was promoted to the next Semester. However, when the authorities



noticed that the petitioner could not have been allowed to appear in the 3<sup>rd</sup> Semester examination in 2017, he is not being allowed to take 6<sup>th</sup> Semester examination.

The petitioner does not dispute that after 2013, 3<sup>rd</sup> Semester examination in subsequent years were held in 2015 and 2016 in which also the petitioner did not appear. In the background of aforesaid facts and in view of Regulation IX(b) of the 'Ordinance for Admission and Regulation of Examination of Bachelor of Computer Application (BCA) of Regular Education Mode (Self-financing scheme) under B.N. Mandal University, Madhepura', the petitioner is not being allowed to take 6<sup>th</sup> Semester examination since he failed to clear 3<sup>rd</sup> Semester examination in two subsequent available attempts which he didn't avail by remaining absent in 2013 and 2014.

A counter affidavit has been filed on behalf of the University bringing on record the said Ordinance by way of Annexure-A. Regulation IX(b) of the Ordinance reads thus :

***"IX(b) A Candidate having completed the course fails to appear at the examination or fails to pass the examination or does not clear any paper shall be allowed to appear at the subsequent examinations in only that those parts and (sic, in) which he/she has failed or absented himself/herself on the payment of prescribed examination fee without being required to go through the course again. However, this opportunity***



*shall be given in only two more examinations within a period not exceeding 3 years excluding the main examination held at the end of session.”*

Reliance has also been placed by the University on a decision of this Court dated 14.08.2018 rendered in C.W.J.C. No. 6114 of 2018 (*Ruchi Rachna Vs. The State of Bihar and others*).

Learned counsel appearing on behalf of the petitioner has attempted to persuade this Court that facts of the present case are entirely different from those in case of *Ruchi Rachna* (supra). He submits that once the petitioner was allowed to take 3<sup>rd</sup> Semester examination in the year 2017, the University could not have refused to allow him to appear in 6<sup>th</sup> Semester examination. The submission, which is being advanced on behalf of the petitioner, is not acceptable in view of the clear language of Regulation IX(b) of the Ordinance as quoted above in the background of admitted facts as have already been noted.

Learned counsel for the University has rightly placed reliance on the case of *Ruchi Rachna* (supra). This Court in case of *Ruchi Rachna* (supra) had occasion to deal with the Court's decision in case of *Ranjeet Kumar v. V.C., J.P. University* reported in 2006(3) PLJR 355, which was relied on in that case on behalf of the petitioner. The Court in case of



***Ruchi Rachna*** (supra) held that the said decision does not lay down a law that even if a student is allowed to appear at examination against Regulations, his results are liable to be published because she was allowed to appear. Since the petitioner appeared in 3<sup>rd</sup> Semester examination in 2017, in violation of the statutory provisions, relief as prayed for, cannot be granted.

This application is accordingly dismissed.

It is indicated that in the light of Regulation IX(b), the petitioner could have been allowed to appear in 3<sup>rd</sup> Semester examination only after going through the course again, which shall be open to her, if otherwise not impermissible.

**(Chakradhari Sharan Singh, J)**

Pawan/Ragini

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