

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17808 of 2018

-
1. Vijay Shanker Son of Feknarayan Singh Resident of House No. - 149, Malgodam, Patel Nagar, Gondapur, P.O. and P.S. - Nawada, District - Nawada.
 2. Vipin Choudhary Son of Raghuveer Singh Resident of Pathar Mandi, Ward No. - 11, Jaitusar, P.S. - Sikar, District - Sikar, Rajasthan.
 3. Alok Kumar Son of Sitaram Yadav Resident of Village - Harser (Nunukala), P.O. - Jagannathpur @ Jagarnathpur, P.S. - Biraul, District - Darbhanga.

... .. Petitioner/s

Versus

1. The Bihar Animal Sciences University through Its Registrar, Bihar Veterinary College Campus, Patna, Bihar.
2. The Vice Chancellor, Bihar Animal Sciences University, Bihar Veterinary College Campus, Patna, Bihar.
3. The Secretary to Vice Chancellor, Bihar Animal Sciences University, Bihar Veterinary College Campus, Patna, Bihar.
4. The Registrar, Bihar Animal Sciences University, Bihar Veterinary College Campus, Patna, Bihar.
5. The Dean cum Controller of Examination, Bihar Animal Sciences University, Bihar Veterinary College Campus, Patna, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Jagjit Roshan
For the Respondent/s	:	Dr. K.N. Singh
		Mr. Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 26-10-2018 Heard learned counsel for the parties.

2. There are three petitioners who are students of Bachelor of Veterinary Science and Animal Husbandry in Bihar Veterinary College under Bihar Animal Sciences University. Petitioners no. 1 and 2, are seeking, *inter alia*, a direction to the respondent-University to accept their registration in 7th Semester of the course whereas petitioner no. 3 is seeking similar



direction for 9th Semester. It is their case that though the petitioners no. 1 and 2 have appeared in 6th Semester Examination, their result is not being published. Similarly, though the petitioner no. 3 has appeared in 8th Semester Examination, his result is not being published and, therefore, the petitioners are not being registered in 7th Semester/ 9th Semester, respectively.

3. There is another relief which the petitioners are seeking i.e. of quashing of Office Order No. 233/BVC, Patna dated 12.07.2018 (Annexure-A), whereby these petitioners have been found guilty of their involvement in ‘open cheating’ and ‘snatching of answer-sheets from the invigilator during the annual examination held on 19th June, 2018’ etc. After having held them responsible for the said misconduct, the University has decided them to place under probation for a period of one year.

4. So far as the first relief is concerned, this is an admitted fact that the petitioners were short of attendance which according to the Regulation governing examination of the course mandatorily postulates. The minimum attendance for a student which makes him/her eligible to appear in the examination is 75 per cent. The petitioners have substantially



less than the said requirement of attendance. It is the case of the University, accordingly, that since the petitioners were not eligible to appear for the examination, their result is not being published.

5. It is the case of the petitioners, on the other hand, that even if they were not eligible to appear for the examination since the University has allowed them to appear for the examination, the University can not now refuse to publish the result, taking shelter of Regulation 15(2) of the Veterinary Council of India Minimum Standards of Veterinary Education (Bachelor of Veterinary Science and Animal Husbandry-Degree Course) Regulations, 2016 (hereinafter referred to as 'the Regulation, 2016). Mr. Jagjit Raushan, learned counsel has vociferously argued that denial of publication of result of 6th Semester and 8th Semester, on the ground of the provision under Regulation 15(2) of the Regulations, 2016, is arbitrary once the University allowed the petitioners to appear for the examination.

6. In respect of second aspect of the matter i.e. of quashing of the Office Order dated 12.07.2018 (supra), learned counsel for the petitioners, has submitted that the petitioners have been held to be guilty of serious charges of misconduct without giving them at all any opportunity of hearing. In



response to this contention of the petitioners, Mr. K.K. Singh, learned Senior Counsel, appearing on behalf of the University, has submitted that the decision of the Disciplinary Committee of the University, holding the petitioners guilty of the serious charges, is based on CCTV footage and the things which had happened in the presence of many. He, however, does not dispute the claim of the petitioners that before issuance of the said Office Order, no opportunity of hearing was given to the petitioners. As a matter of fact, this aspect has been admitted in the counter affidavit filed on behalf of the University.

7. Let me examine now the rival contentions of the parties.

8. Regulation 15(2) of the Regulation, 2016 reads thus:-

“15. (1).....

(2) A candidate having attendance below 75% in a subject shall not be eligible to appear in the annual examination of that subject.”

(emphasis mine)

9. In most unambiguous terms, the provision noted above requires attendance of 75 per cent to be compulsory for a candidate to be eligible to appear in the annual examination of



the subjects. The petitioners were admittedly having attendance below 75 per cent in the subjects. They were thus ineligible to appear in the annual examination, in view of the language of Regulation 15(2) of the Regulation, 2016. Since they were ineligible to appear for the examination, only on the ground that they were allowed to appear for the examination by the University, they cannot be said to have become eligible for the said examination. The decision of the University not to publish the petitioners' result, therefore, cannot be said to be unjustified. The first relief as prayed for on behalf of the petitioners, cannot be granted.

10. So far as the second aspect is concerned, I find substance in the contention of the petitioners. It is apparent on reading of Annexure-8 of the writ application that serious stigma has been attached to these petitioners without giving them any opportunity of hearing. This being an admitted fact, Annexure-8 cannot be allowed to sustain and is, accordingly, quashed.

11. The University shall be at liberty to pass an order afresh but after giving these petitioners an opportunity of hearing.

12. It is indicated that even if the University decides



to proceed after giving the petitioners opportunity of hearing in respect of the said incident, in view of observations made by the Court as above, no harsher action shall be taken against them than that indicated in the impugned order.

13. Learned counsel for the petitioners has apprehension that if they are not promoted to the next Semester i.e. 7th and 9th Semester, respectively, it will cause them serious prejudice, since in 5th and 6th Semester and 7th and 8th Semester also they were found to be lacking in their attendance and thus, may not be allowed to appear for the annual examination of the concerned year.

14. The Court expects that the University shall look into this aspect of the matter and take a decision which according to the University is found to be in the best interest of the students without violating any statutory provision. If required, the University shall arrange extra classes to these petitioners, if they are found to be lacking in fulfillment of requirement of requisite attendance.

15. This application stands disposed of.

(Chakradhari Sharan Singh, J)

Ashish/-

U			
---	--	--	--

