

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14065 of 2018

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1. Sumati Kumari, D/o Mahipal Singh, Resident of Village- Pachmahala Bind Toli, P.O.- Raily, P.S. N.T.P.C. Barh, District- Patna.
 2. Juli Kumari, D/o Mishri Paswan, Resident of Village- Jadopur, P.S.- Gawasha Shekhpura, P.S.- Pandarak, District- Patna.
 3. Laxmi Kumari, D/o Parshuram Singh, Resident of Village + P.O.- Rana Bigha, P.S.- Barh, District- Patna.
 4. Sony Kumari, D/o Mahesh Singh, Resident of Village- Laxmipur, P.O.- Raily, P.S. N.T.P.C. Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. Magadh University, Bodh Gaya through Registrar.
4. Vice Chancellor, Magadh University Bodh - Gaya.
5. Registrar, Magadh University Bodh- Gaya.
6. Principal Sant Sandhya Das Mahila College Barh, District- Patna.
7. Examination Controller, Magadh University, Bodh- Gaya.
8. Patliputra University, Patna through its Registrar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shanti Pratap Mr. Surendra Kumar
For the Respondent State:		Mrs. Neetu Jha, AC to GA-12
For the Respondent No. 3:		Mr. Amitabh Sohan
For the Respondent No. 6:		Mr. Rakesh Kumar Singh
For the Respondent No. 8:		Mr. P.K. Verma, Sr. Adv. Dr. Anand Kumar

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 05-09-2018 This writ application has been filed by the petitioners, who claim to be the students of Sant Sandhya Das Mahila College, Barh, seeking direction to the respondent, Magadh University to accept fee and forms submitted by them for appearing at B.A./B.Sc. Part III examination for the Session 2015-18.



It is the petitioner's claim that the college was granted affiliation by the University, which has been extended from time to time by the University. It is, however, not in dispute that the decision of the University to grant affiliation in favour of the college in question has never been approved by the State Government as required under Section 21 (2)(d) of the Bihar State Universities Act. The question of status of a college, in respect of which no approval has been granted by the State Government under Section 21 (2)(d) of the Act, has been considered by this Court's decision dated 26.04.2018 in case of ***Dr. Ram Pramod Thakur vs. the State of Bihar & Ors.*** (C.W.J.C. No. 4660 of 2017) and other analogous cases. This Court, upon examining various provisions of the Universities Act, has specifically held in paragraph 4 of the order, which reads as under: -

“4. This is not in dispute that the approval by the State Government as contemplated under the abovenoted proviso to Section 21 (2) (d) of the Act has not been accorded by the State Government to the college, in question. This is also to be noted, at this juncture, that the Senate of the University after taking a decision to grant affiliation to the college, in question, had referred the matter to the State Government for grant of requisite approval under the first proviso to section 21 (2)



(d) of the Act way back on 26.08.2009, which fact is not in dispute. This is also not in dispute that the State Government of Bihar had not taken any decision on grant of requisite approval of affiliation, as contemplated under the first proviso to Section 21(2) (d) of the Act till presentation of this writ application. In such circumstance, in view of clear language used in the said proviso to section 21 (2) (d) of the Act, the decision of the Senate to grant affiliation cannot be said to have taken effect in respect of the college, in question. However, much after filing of the writ applications, the State Government has taken a decision by an order dated 08.03.2018, passed by the Education Department rejecting the proposal for approval of the affiliation. Apparently thus, it took the State Government 09 years to take a decision on the proposal of the University to grant approval of affiliation in terms of the first proviso to section 21(2) (d) of the Act.”

This Court has taken similar view in case of *Catalyst Institute of Management & Advance Global Excellence vs. Magadh University, Bodh Gaya* (C.W.J.C. No. 9684 of 2017) and other analogous cases in its decision rendered on 31.08.2017. This is an undisputed fact that the college in question does not have the status of affiliated college in the absence of approval granted by the State Government, relief, which the petitioners are seeking, cannot be granted.



Mr. Shanti Pratap, learned counsel appearing on behalf of the petitioners has drawn my attention to an interim order passed by the Division Bench of this Court whereby in similar circumstance the Division Bench granted interim relief allowing the students to appear for the examination subject to final decision of the case before the Division Bench. He has submitted that the State of Bihar has kept the matter of grant of approval of affiliation pending for years together and for the inaction on the part of the State Government, the students of the college should not be allowed to suffer.

I am not inclined to accept the submission advanced on behalf of the petitioners. A close reading of the provisions under the Bihar State Universities Act makes it clear that the college in question should not have allowed admissions in the absence of approval having been granted by the State Government. Since, till the approval is granted by the State Government, the decision to grant affiliation does not come into effect in view of clear language of Section 21 (2)(d) of the Act. This is to be noted that the State of Bihar has subsequently granted approval of affiliation in respect of college in question but for the Session 2018-19.

In such circumstance, no relief, as sought in the



present application, can be granted.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Pawan/Ragini

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