

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14848 of 2018

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Jyoti Kunwar College, Fathepur, Patna- 803201, through its Secretary Sri Lakshmi Narayan @ Dr. Lakshmi Narayan, aged about 48 years, Son of Sri Rajeshwar Singh, Resident of Village- Dahar, Fathepur, Police Station- Didarganj, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Higher Education, Government of Bihar, Patna.
3. Magadh University, Bodh Gaya, Gaya, through its Vice Chancellor.
4. The Vice Chancellor, Magadh University, Bodh Gaya, Gaya.
5. The Registrar, Magadh University, Bodh Gaya, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar
		Mr. Surya Swetabh
For the University	:	Mr. Amitabh Sohan
For the State	:	Mr. Apurv-Harsh, AC to SC-28
For the P.P.U.	:	Mr. P.K. Verma, Sr. Advocate
		Dr. Anand Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 17-09-2018 The petitioner-Jyoti Kunwar College, Fathepur, which was affiliated with Magadh University, Bodh Gaya, now with the successor University i.e. Patliputra University, Patna is seeking following reliefs:-

“i. For issuance appropriate Writ in the nature of Mandamus commanding the Respondents to grant Permanent Affiliation to the petitioner Institution for Honour(s) Courses since the petitioner Institution fulfills each & every criteria for the same.



ii. For issuance of an appropriate Writ in the nature of Mandamus commanding the Respondent University to allow the students of Honour(s) Courses of the petitioner Institution admitted since the year 2015 to 2017, to appear in the Examinations as they have been admitted in the petitioner college, have pursued their studies and the 3rd year students have passed their 1st and 2nd year examinations while those in 2nd year have already passed their 1st year examination.

iii. For issuance of an appropriate Writ in the nature of Mandamus commanding the Respondent University to allow the failed/promoted students of the petitioner institution admitted since 2015 to 2017 to appear in the ensuing examination.”

During the pendency of this application, an interlocutory application being I.A. No. 6993 of 2018 was filed, seeking certain amendments in the relief portion. The petitioner wanted following reliefs to be added with the main relief:-

“(i) For issuance of appropriate writ in the nature of Mandamus commanding the Patliputra University



(Respondent No. 7) to admit the students of Pass Course of the Petitioner College as the College has permanent affiliation for the Pass Course.

(ii). For issuance appropriate writ in the nature of Mandamus to the consider Petitioner's application for grant of permanent affiliation for Honours Courses and allow the students to be admitted for Honours courses thereafter."

So far as the grievance of the petitioner against the University of not allowing the college to admit students at the level of pass course is concerned, that appears to be redressed, in view of the statement made by Ms. Nivedita Nirvikar, learned counsel for the petitioner. It has been stated that the college has now been allowed to admit students up to pass course level.

This is to be noted that admittedly the petitioning college has been granted affiliation by the University to conduct courses up to B.A./B.Com. (pass course). An application for grant of affiliation up to Honours level was also made. However, this is not in dispute that the petitioner has affiliation up to pass course level only since the approval granted by the State Government of affiliation is up to the pass course studies only.



Coming to the other reliefs which the petitioner has sought in the main application i.e. to allow the students of the college since 2015-17 in Honours course(s) for filling up their examination forms and submitting their fees for the purpose of Honours Examination, in my view, cannot be sustained, in view of the clear provision under Section 21(2)(d) of the Bihar State Universities Act, 1976 (hereinafter referred to as 'the Act) the effect of which has been discussed in the judgment order dated 26.04.2018, passed in CWJC No. 4660 of 2017 (***Dr. Ram Pramod Thakur Vs. State of Bihar and Ors.***) and another analogous case. It is clear from the language of Section 21(2)(d) of the Act that an affiliation cannot come into effect unless it is approved by the State Government. The approval in respect of the college for affiliation is approved up to pass course level only. In such circumstance, the second relief of the reliefs sought in the main application, cannot be granted.

So far as the first relief is concerned of seeking direction the respondents to grant permanent affiliation up to Honours course(s), it is directed that if a fresh application is made or has been made for grant of affiliation in accordance with the provisions under the Act and Statutes framed thereunder, the University and the State shall be bound to take



appropriate decision thereon, in accordance with the time-frame prescribed by this Court in case of *Dr. Ram Pramod Thakur Vs. State of Bihar and Ors.* (supra).

This application stands disposed of. I.A. No. 6993 of 2018 also stands disposed of.

(Chakradhari Sharan Singh, J)

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