

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.618 of 2018
IN
Civil Writ Jurisdiction Case No. 1745 of 2018**

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1. Exalt Educational Trust, Registered Office 311/A, Ashiyana Tower, Exhibition Road, Patna through its Chairman, Deepak Kumar.
 2. Deepak Kumar Son of Shri Guneshwar Prasad Resident of 311/A, Ashiyana Tower, Exhibition Road, Patna, P.S. - Gandhi Maidan, District - Patna, Chairman, Exalt Educational Trust as well as Exalt College of Polytechnic.
 3. Exalt College of Engineering and Technology Kanhauli, P.S. Mahuwa, District - Vaishali (Hajipur) through its Chairman Deepak Kumar.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Science and Technology Department, Govt. of Bihar, Patna.
3. The Vice Chancellor, Aryabhata Knowledge University Bihar, Patna.
4. The Registrar, Aryabhata Knowledge University, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. P.H.Shahi, Adv.

For the Respondent/s : Mr. Dharendra Kumar-AC to AAG6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 17-05-2018

Challenging the order dated 23.04.2018 passed by the learned writ Court in C.W.J.C. No.1745 of 2018, the writ petitioners has preferred this intra court appeal. It appears that the writ application was preferred challenging the order dated 08.12.2016 and subsequent letter dated 27.05.2017 issued by the Registrar, Aryabhata Knowledge University, Patna, whereby extension of affiliation of the



College in question for the session 2016-2017 had been rejected.

2. At the outset, the learned writ Court took note of the fact that the writ application had become infructuous inasmuch as, the academic session 2016-17 had commenced from July, 2016 itself whereas, the writ application was preferred before this Court on 27.01.2018.

3. The whole contention of the petitioners was that because of the delay caused by the University in taking a decision the affiliation to the institute in question could not be extended/granted. It is the case of the writ petitioners-appellants that the All India Council for Technical Education (A.I.C.T.E), New Delhi, had already granted affiliation to the institute for the session 2016-17 (Annexure-2 series) but despite the institute fulfilling all the terms and conditions for granting affiliation for conduct of the courses, the Aryabhat Knowledge University, Patna, had refused to grant affiliation for conducting engineering courses for the session 2016-17 deliberately without assigning any reason.

4. It is submitted that in the case of **Parshvanth Charitable Trust & ors. vs. All India Council for Technical Education, & ors** (Civil Appeal No.9048 of 2012 reported in (2013) 3 SCC 385) the Hon'ble Supreme Court has laid down the guidelines for inspection of the institute, granting or refusing approval of the University/State is to



be done by 15th May of every year. It is alleged that in total disregard to the direction of the Hon'ble Supreme Court, the petitioners' college was inspected much beyond the prescribed time and only on 3rd October, 2016 the inspections were carried out. The petitioners claim that the affiliation to the institute be deemed to have been granted for the session 2016-17 taking into consideration the previous affiliation granted by the University.

5. Learned counsel representing the appellants submits that the writ Court has not been able to appreciate the difficulties being fixed by the institute as well as the students who were admitted during the academic session 2016-17. It is submitted that in absence of affiliation to be provided to the Institute for the session in question the students will be losing their precious time and, therefore, the case is required to be considered keeping in mind the equitable considerations.

6. On the other hand, learned counsel representing the State has opposed the appeal as according to them the learned writ court has committed no error in refusing to grant the relief keeping in mind the judgment of the Hon'ble Supreme Court clearly providing the guidelines for the purpose.

7. Having heard learned counsel for the parties and on perusal of the materials available on the record, we are of the view



that the learned writ Court has committed no error. The delay on the part of the writ petitioners in approaching this Court has made them disentitled for the reliefs prayed for. The institute in question was not inspected till the prescribed period fixed by the Hon'ble Supreme Court, it is the ground pleaded now to submit that there is a delay on the part of the University in carrying inspection and taking a decision as to grant of affiliation, we find that the writ petitioners are equally at fault in not approaching this Court well before lapse of the prescribed time for inspection and decision making on the part of the University. The University has shown in its counter affidavit that in course of inspection on 03.10.2016 the inspecting team did not find any student available in the college, no faculty was found in the college except one old person and the college had no Principal for last three to four months. In these conditions on the basis of the report submitted by the inspecting team a decision was taken on 24.11.2016 to declare the college in question not fit to impart education of B.Tech Programme. We are of the view that the writ petitioners moved this Court at a much belated stage for quashing of the decision taken by the University and, therefore, the learned writ Court has rightly refused to grant any relief.

8. In our opinion, any writ or order in this regard passed in the year 2018 would have been also been contrary to the judgment of



the Hon’ble Supreme Court. The plea of equity cannot come to the rescue of the appellants where the affiliation of the college has to be granted only after following the Rules and norms required, therefore, admission taken by the institute/college in question in absence of affiliation for the academic session 2016-17 cannot be approved by a writ Court.

9. The Letters Patent Appeal has no merit. It is, accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha

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