

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.12 of 2019

In

Civil Writ Jurisdiction Case No.2048 of 2018

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Brahmdev Muni Udasin Sanskrit Mahavidyalay, Subhash Chowk, Hajipur, Vaishali through its In-charge Principal namely Jay Kishor Pandey, aged about 62 years, son of Sitaram Pandey, Resident of 252 Lalganj Road, Near Gas Godam, Hathsarganj, Hajipur, P.S. Hajipur, District-Vaishali

... .. Appellant/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Education, Government of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Education Department , Government of Bihar, New Secretariat, Patna.
3. The Joint Secretary to the Government, Education Department, Government of Bihar, New Secretariat, Patna.
4. The Deputy Secretary to the Government, Education Department, Government of Bihar, New Secretariat, Patna.
5. The Director, Higher Education Department, Government of Bihar, New Secretariat, Patna.
6. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
7. The Vice Chancellor, Kamkeshwar Singh Darbhanga Sanskrit University, Darbhanga.
8. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
9. The Governing Body of Brahmdev Muni Udasin Sanskrit Mahavidyalay, Subhash Chowk, Hajipur, Vaishali through its Secretary namely Dr. Dinesh Narayan Mallik @ Dinesh Kumar Mallik, aged about 67 years, Resident of 1A, Rukmi Block, Mukundkunj Apartment, Mahatma Gandhi Nagar, Patna.- 800026.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Arun Kumar, Advocate
For the State : Mr. Ashutosh Ranjan Pandey- AAG-15
For the Resp. 6, 7, & 8 : Mr. Gyanand Roy, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-07-2019



We have heard learned counsel for the appellant.

A delayed approach in the matter of affiliation and grant of approval by the State Government resulted in a litigation that has given rise to the present appeal. The facts with regard to the nature of the dispute have been recorded by the learned Single Judge in a matter where the appellant had challenged the order dated 27.11.2017 whereby the Principal Secretary, Education Department, Government of Bihar refused to make approval to the appellant on the ground of non-fulfillment of certain conditions.

The learned Single Judge in paragraph 3 of the judgement has noted four reasons that were the cause for denial of approval. While examining the facts stated on oath after exchange of affidavits, the learned Single Judge came to the conclusion that the confusion had been created on account of a wrong projection of fact relating to a ban on making of appointments which was one of the deficiencies pointed out in the order refusing approval. The Court came to the conclusion after considering the affidavit of the State Government that the said indication of ban was merely advisory in nature and, as a matter of fact, there was no bar to make the appointments. The confusion having been cleared, the learned Single Judge



recorded this fact that there was a misinterpretation of the internal communication between the Departments and that the institution had to proceed to make appointments.

While concluding, the learned Single Judge in paragraph 10 has observed as under:

“10. Be that as it may, since the confusion no more survives, the petitioner shall be at liberty to take steps for appointing teaching and non-teaching employees for fulfilling the requisite conditions for grant of affiliation/approval of affiliation in accordance with the law after following due procedure. Once the College does so, in accordance with law, the College will be at liberty to take steps for grant of affiliation/approval of affiliation by the University and the State of Bihar, as the case may be.”

A perusal of the same demonstrates that the College has been given an opportunity to appoint the teaching and non-teaching staff and once the College does so, it was left open to the College to take steps for grant of affiliation or approval from the University and/or the State Government, as the case may be.

We find this observation to be a just and equitable observation, inasmuch as unless the terms and conditions of affiliation are not fulfilled, the recommendation by the University cannot have the force of a recommendation for grant



of approval by the State Government. We, therefore, do not find any reason to interfere with the said observations without prejudice to the rights of the appellant institution to take all possible steps for complying with the same and once the University grants the affiliation, the recommendation shall be sent to the State Government which shall be considered in accordance with law.

With the aforesaid observations, the appeal is consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

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