

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5102 of 2019

St. Xaviers College of Education, Patna, through its Principal Cum Secretary of Governing Body, Dr. Thomas Varghese@ Fr. (Dr.). Thomas Perumalil S.J., Resident of St. Michael's High School Jesuit Residence, Digha Ghat, P.S. Digha, District- Patna.

... .. Petitioner/s

Versus

1. Chancellor of the Universities of Bihar Raj Bhavan, Patna through Principal Secretary, Governors Secretariat, Raj Bhavan, Patna.
2. Officer on Special Duty(Judl.) Governors Secretariat, Raj Bhavan, Patna.
3. Aryabhatta Knowledge University Patna through the Vice Chancellor, Aryabhatta Knowledge University, Patna
4. Nalanda Open University through its Vice-Chancellor, N.O.U., Patna-1

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.K.M.Joseph
Mr. Benjamin Lakra
For the Respondent Nos. 1 & 2 : Mr.Rajendra Kumar Giri
For the Respondent No. 3 : Mr. Dwivedy Surendra

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 24-04-2019 The present writ petition has been filed for setting aside the orders dated 18.12.2018 and 05.03.2019, passed by the Governor Secretariat, Bihar and further for directing the respondents to permit the petitioner to select and admit students of its own choice by bypassing the system of Common Entrance Test, devised by the State Government.

At this juncture, the learned counsel appearing for the Nalanda Open University has produced a judgment dated 09.04.2019 passed by the Hon'ble Apex Court in almost similar situation in the cases of Minority Institutions of the State of



Bihar wherein also the impugned notifications were subject matter for consideration.

The Hon'ble Apex Court by the aforesaid judgment dated 09.04.2019 passed in Writ Petition (Civil) No. 1076 of 2018 (Aniket & Ors. vs. Nalanda Open University & Ors.), has held as follows:-

“In terms of the Memorandum dated 18.3.2019 issued by the Governor's Secretariat, 50% of the seats in the appellant colleges have to be filled up on the basis of inter se merit on the basis of the result of the common entrance examination. To this extent compliance must be made.

For the remaining 50% of the seats, at the first instance, an attempt will be made to fill up the seats in terms of the memorandum dated 18.3.2019, namely, on the basis of the inter se merit of the minority students, as per the common entrance examination. If, however, a situation arises where any one of the appellant colleges is unable to fill up 50% of the seats from minority students on the basis of the result of the common entrance examination i.e. by following the inter se merit among the minority students, it will be open for the appellant colleges to conduct a separate selection process for filling up the remaining unfilled or the entire 50% of the unfilled seats, as may remain vacant, from minority students. This is a purely interim arrangement which the Court has directed keeping in mind all the relevant facts and circumstances and will hold the field for the academic year 2019-20.



The appeals will now come up for final consideration and hearing after the commencement of the academic year 2019-20. The parties will inform the Court by filing affidavits as to the manner in which the above interim directions have been implemented by the appellant colleges.”

Having regard to the aforesaid directions issued by the Hon’ble Apex Court, the respondents are bound by the said direction and the learned counsel for the parties also submits that they would comply the aforesaid order of the Hon’ble Apex Court.

Having regard to the aforesaid judgment of the Hon’ble Apex Court, the present writ petition stands disposed off on similar terms. It is needless to state that the final outcome of the aforesaid W.P. (C) No. 1076 of 2018 shall govern the case of the petitioner as well.

(Mohit Kumar Shah, J)

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