

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8962 of 2019

Mahesh Singh B.Ed. College Kendua, P.O.- Kendua, P.S.- Magadh Medical College Hospital, District- Gaya through its Secretary, Sanjay Kumar Singh (Male), aged about 55 years, Son of Late Mahesh Prasad Singh, Resident of Village- Kendui, P.O.- Kendui, P.S.- Magadh Medical College Hospital, District- Gaya.

... .. Petitioner/s

Versus

1. Magadh University, Bodh Gaya through its Registrar.
2. The Vice Chancellor Magadh University, Bodh Gaya.
3. The Registrar Magadh University, Bodh Gaya.
4. National Council for Teacher Education (A Statutory body of the Govt. of India) Hans Bhawan Wing II, Bhadurshah Zafar Marg, New Delhi-110002 through its Member Secretary.
5. The Member Secretary National Council for Teacher Education, Hans Bhawan Wing II, Bhadurshah Zafar Marg, New Delhi-110002.
6. National Council for Teacher Education Eastern Regional Committee, (A Statutory body of the Govt. of India), 15 Neelkantha Nagar, Nayapalli, Bhubneshwar- 751012.
7. The Regional Director National Council for Teacher Education Eastern Regional Committee, 15 Neelkantha Nagar, Nayapalli, Bhubneshwar- 751012.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Arun Kumar
For the Respondent/s	:	Mr. Syed Firoz Raza
For the University	:	Mr. Ritesh Kumar
For the N.C.T.E.	:	Mr. Sunil Kumar Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 08-05-2019 The present writ petition has been filed for issuing direction to the respondent Nalanda Open University for allotting 150 students out of the combined merit list prepared for the Academic Session 2019-20, pursuant to the combined entrance test to be held by the Nalanda Open University, in favour of the petitioner institution.

The learned senior counsel for the petitioner has submitted that the petitioner has already got recognition/



affiliation as far as 100 seats are concerned and the only question involved in the present writ petition is with regard to the additional 50 seats for which the National Council for Teacher Education has already granted permission/recognition vide letter dated 05.11.2018.

Per contra, the learned counsel for the respondent University submits that the respondent University be granted liberty to act as per the direction issued by the Hon'ble Apex Court in a case reported in **(2013) SCC 617 (Maa Vaishno Devi Mahila Mahavidyalaya vs. State of U.P. & Ors.)**, as contained in paragraph no. 71 thereof, i.e. with regard to its right to inspect and come to a conclusion regarding the sufficiency of the statutory requirements for the purposes of running the institution as per the existing norms. It is further submitted that the petitioner college had applied for affiliation of the additional 50 seats only on 22.12.2018 which is subsequent to the prescribed time limit, as contained in the notification issued by the Chancellor dated 25.04.2018, hence the case of the petitioner for additional 50 seats would be considered for the Session 2020-21.

At this juncture, the learned senior counsel for the petitioner has referred to the Schedule prescribed by the



Hon'ble Apex Court for recognition and affiliation in the case of ***Maa Vaishno Devi Mahila Mahavidyalaya*** (supra). Relying on the said judgment, it is submitted, by referring to paragraph no. 87.1.13 that as per the Schedule prescribed by the Hon'ble Apex Court, the last date for submitting proposal for affiliation is "by 10th March of each year" and the petitioner has submitted his application for affiliation before the respondent-University on 22.12.2018 i.e. well within the prescribed time frame.

Upon a query being put to the learned counsel appearing for the University, he was unable to either refute the ratio laid down in the aforesaid judgment rendered in the case of in the case of ***Maa Vaishno Devi Mahila Mahavidyalaya*** (supra) or deny that the Schedule prescribed therein would be applicable in the case of the petitioner herein.

Having regard to the facts and circumstances of the case and having heard the learned senior counsel for the petitioners as also the learned counsel for the University and the N.C.T.E., this Court is of the opinion that the directions issued by the Hon'ble Apex Court as also the Schedule prescribed therein for the purposes of recognition and affiliation by the Hon'ble Apex Court are sacrosanct and cannot be either ignored or disobeyed by anyone, being the law of the land under Article



141 of the Constitution. Hence, following the ratio laid down in the judgment rendered by the Hon,ble Apex Court in the case of ***Maa Vaishno Devi Mahila Mahavidyalaya*** (supra) as also considering the Schedule prescribed in the said judgment, this Court holds that the application for affiliation filed by the petitioner before the respondent University is within time as far as the Session 2019-20 is concerned, hence the University is directed to process the same, in accordance with law.

At this juncture, the learned senior counsel for the petitioner has referred to a judgment passed by a coordinate Bench of this Court dated 23.07.2018 in ***CWJC No. 13567 of 2018 (Ram Kripal Singh Teachers Training College vs. The State of Bihar & Ors.)***, paragraph no. 5 whereof is relevant herein below:-

“5. In the counter affidavit filed on behalf of the Magadh University, it has been stated that the entire records in relation to grant of affiliation of the petitioning institutions have been transferred to the newly created Patliputra University, Patna, which came into existence with effect from 18.03.2018. Since there is no dispute about the decision of the NCTE for enhancing the intake capacity of the Institutions, I direct that the intake capacity of the Institutions shall be treated to be 150 by all concerned, for all purposes, if there is no dispute about grant of additional intake capacity by NCTE as



noticed above.”

It is submitted that the aforesaid judgment has attained finality inasmuch as the same has not been challenged, either by the University or the N.C.T.E., hence the ratio of the said judgment is required to be followed in the present case. This Court finds that though the ratio laid down by the coordinate Bench in the case of ***Ram Kripal Singh Teachers Training College*** (supra) is required to be followed in the present case in order to maintain judicial consistency but the same is subject to paragraph no. 71 of the judgment rendered by the Hon'ble Apex Court in the case of ***Maa Vaishno Devi Mahila Mahavidyalaya*** (supra).

It is needless to state that the Schedule mentioned in the ***Maa Vaishno Devi Mahila Mahavidyalaya*** (supra) is required to be maintained by the respondent University in its true letter and spirit.

The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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