

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8128 of 2019

=====

Priya Kumari Singh Daughter of Sri Jitendra Singh resident of Village-
Nachap P.S.-Manjhi District-Saran, Bihar.

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna
2. Vice Chancellor, Magadh University, Bodh Gaya, Gaya.
3. Registrar, Magadh University, Bodh Gaya, Gaya.
4. Examination Controller, Magadh University, Bodh Gaya, Gaya.
5. Damyanti Devi Mahila College through its Principal, Off Bailey Road,
Behind Keshav Place, P.S. Shastrinagar, Distirct-Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ashish Kumar Lal Mr. Pratik Kumar Sinha
For the Respondent/s	:	Smt. Shilpa Singh-GA12 Smt. Abhanjali, AC to GA-12
For the University	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Syed Firoz Raja

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 07-05-2019

The present writ petition has been filed for directing the respondent-University to issue mark-sheet of the petitioner pertaining to B.Sc Part-III (Hons.) Examination, 2018.

2. The case of the petitioner in brief is that the petitioner is / was a regular student of Damyanti Devi Mahila College (hereinafter referred to as 'the College') and had been pursuing the B.Sc. Course pertaining to the Session 2015-2018. The College is affiliated unit of the Magadh University. The petitioner, soon after taking admission in the College, had



applied for registration under the Magadh University and she was allotted registration no. 1521515/2015 whereafter, the petitioner had appeared in the Part I and Part II examination of the B.Sc curriculum and had successfully passed the examination with more than 60% marks.

3. It is the case of the petitioner that thereafter, she had filled the B.Sc Part III Examination 2018 form, whereupon the admit-card was issued to the petitioner and she was allotted roll number as well as the centre of examination was fixed as G.D.M. College, Patna, whereupon the petitioner had appeared in the examination and fared well. While the petitioner was waiting for her result to be published, she came to know that though the results of the Colleges under the jurisdiction of the Magadh University had been published but the result pertaining to the petitioner's College was not declared / published, hence, she has been compelled to approach this Court for directing the University to publish her result.

4. The University has filed a counter affidavit wherein it has been accepted that the petitioner was the student of Damyanti Devi Mahila College for the session 2015-2018 and permanent affiliation was granted to the College in question in different subjects of B.A., B.Sc pass course from the Session 1995-1996



onwards. It is also stated in the said counter affidavit that though the examination forms were being submitted by the Colleges and the examination was being conducted continuously, but pursuant to the directions issued by this Court in various cases to the effect that the results of those Colleges, whose affiliation has not been granted by the State Government, should not be published, the University, upon examination of the records, found that the petitioner's College is not affiliated as far as B.A., B.Sc (Hons.) Courses are concerned, hence, the result of the petitioners' College has not been published.

5. The learned counsel appearing for the Magadh University has referred to a judgment rendered by the Hon'ble Apex Court, reported in (1991) 3 SCC 87 (*State of Tamil Nadu & Others vs. St. Joseph Teachers Training Institute & Another*), paragraph no. 6 whereof is reproduced hereinbelow:-

“6. The practice of admitting students by unauthorised educational Institutions and then seeking permission for permitting the students to appear at the examination has been looked with disfavour by this Court. [In Nageshwaramma v. State of A.P](#) this Court observed that if permission was granted to the students of an unrecognised institution to appear at the examination, it would amount to encouraging and condoning the establishment of unauthorised institutions. The Court declared that the jurisdiction of this Court under [Article 32](#) or of the High Court under [Article 226](#) of the Constitution should not be



frittered away for such of purpose. In A.P. Christains Medical Educational Society v. Government of A.P. a similar request made on behalf of the institution and the students for permitting them to appear at the examination even though affiliation had not been granted, was rejected by this court. The court observed that any direction of the nature sought for permitting the students to appear at the examination without the institution being affiliated or recognised would be in clear transgression of the provision of the Act and the regulations. The court cannot be a party to direct the students to disobey the statute as that would be destructive of the rule of law. The full Bench noted these decisions and observations and yet it granted relief to the students on humanitarian grounds. Courts can not grant relief to a party on humanitarian grounds contrary to law. Since the students of unrecognised institutions were legally not entitled to appear at the examination held by the Education Department of the Government, the High Court acted in violation of law in granting permission to such students for appearing at the public examination. The directions issued by the full Bench are destructive of the rule of law. Since the Division Bench issued the impugned orders following the judgment of the Full Bench, the impugned orders are not sustainable in law.

6. The learned counsel appearing for the petitioner has not been able to controvert or rebut the factum of the petitioner's College being not affiliated to the University in B.A., B.Sc. (Hons.) Course, hence, this Court is bound by the acts / regulations / statutes and cannot issue any direction to the University, in violation of the law, to publish the result of the



petitioner, especially, since the Hon’ble Apex Court has deprecated the practice of the Courts granting relief to a party on humanitarian ground contrary to law.

7. For the reasons mentioned hereinabove, there is no merit in the present writ petition, accordingly, the same is dismissed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	24.04.2019
Uploading Date	07.05.2019
Transmission Date	NA

