

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19574 of 2019

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1. Goswami Laxminath Madhusudan Sanskrit College Bangaon, P.S.- Bangaon, District Saharsa through the Secretary, Managing Committee, G.L.M. Sanskrit College, Bangaon, P.S.- Bangaon, District- Saharsa.
 2. MadhuriJha Wife of Laxmeshwar Jha Resident of Village and P.S.- Bangaon, District- Saharsa, Presently Secretary, Managing Committee, Goswami Laxminath Madhusudan Sanskrit College, Bangaon, P.S.- Bangaon, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Department of Higher Education, Government of Bihar, Patna.
3. The Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
4. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
5. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Advocate
		Mr. Pramod Mishra, Advocate
For the Respondent/s	:	Mr. Jitendra Kumar Royl, S.C. 13

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 23-09-2019 Heard learned counsel for the petitioners and learned counsel appearing for the respondent State.

The petitioner institution is aggrieved by the arbitrary exercise of power by the respondents in the matter or rejecting their application for grant of affiliation.

Mr. Chitranjan Sinha, learned senior counsel appearing for the petitioner, would submit that the petitioner institution was earlier granted affiliation way back in the year 1970. The institution enjoyed the privilege of affiliation up to



2018. On 17.07.2019, the respondents have decided to reject the application of the petitioners' institution for grant of permanent affiliation vide 'Annexure 1'. Mr. Chitranjan Sinha has drawn the attention of this Court to the deficiency pointed out by the respondent Deputy Secretary, Department of Education, in the impugned order.

There is reference of deficiency in the matter of appointment of teachers against the sanctioned posts. Only 9 teachers are working against 10 sanctioned posts out of which, Raghunandan Jha, Balram Jha and Harimohan Khan were not appointed by the competent authority. The order indicate that the University has rejected the proposal for approval of the services of the aforesaid three teachers. The order does not indicate any other infirmity in the institution warranting decision of rejection. The deficiency as pointed out as to the lack of sufficient teaching staff is not real dispute, the dispute is with regard to the validity of the appointment of three teachers on account of non-approval of their services by the University. It is a matter of common knowledge that in most of the State run institutions, there is a gross deficiency of teaching staff. If the parameters adopted by respondent in rejecting the application of the petitioner is taking decision is measuring standard in the



matter of allowing or closing the institution, then, this Court may take judicial notice of the fact that not less than 90 per cent institutions run by the State has to be closed only on the ground of deficiency in the matter of teaching staff. It is now admitted fact that in the absence of private sector, the State has no infrastructure and other facilities to run the institutions and cater the need of major population. The ground reality noticed by the Apex Court in the case of T.M.A. Foundation is still holding the field. In similar situation, this Court has occasion to allow the writ application on the deficiency as pointed out by the respondents for rejecting the application for grant of affiliation on account of 6 teachers against 10 sanctioned strength in C.W.J.C. No. 17283 of 2019 dated 23.08.2019. The present writ application is also allowed. The order of rejection of application for grant of affiliation cannot sustain. The respondents are directed to take appropriate fresh decision adopting pragmatic approach within the period of 60 days from the date of receipt/production of a copy of this order.

With the aforesaid, the present writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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