

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21777 of 2019

Raja Ram Sah Degree (Evening) College, Rampath Koiriya Tola, Raxaul (East Champaran) through its Principal, Prof. Sanjay Kumar (male), aged about 49 years, son of Shri Surendra Prasad, resident of Mohalla Chhota Pareuwa, Block Road, P.O. and P.S. Raxaul, District East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Deputy Secretary, Education Department (Higher Education), Government of Bihar, Patna.
4. The Director, Education Department (Higher Education), Government of Bihar, Patna.
5. Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur through the Registrar.
6. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
7. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.
8. The Examination Controller, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. S.K. Ranjan, A.C. to G.P.17
For B.R.A. Bihar Uni.	:	Mr. Arbind Nath Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 02-12-2019 Heard learned counsel for the petitioner, learned counsel for the State as well as learned counsel appearing on behalf of the University.

The petitioner has filed this writ petition for quashing the order dated 27.02.2019 as contained in Memo No.455, issued under the signature of respondent no.3, by which proposal for



grant of affiliation to the college of the petitioner has been rejected on the ground that the college of the petitioner has got only 49.4 decimals of land that too on lease.

Learned counsel for the petitioner submits that the petitioner filed petition for grant of affiliation to his college in the year 2011. When the affiliation was not granted to the petitioner within time, the petitioner filed CWJC No.8932 of 2012 and this Court by order dated 24.08.2012 directed the respondent-State to issue order of permanent affiliation. Thereafter the University recommended the proposal for grant of affiliation to the college of the petitioner but the State of Bihar rejected the proposal for grant of affiliation to the college of the petitioner by the impugned order (Annexure-P-7) on the ground that the college does not fulfill the criteria for grant of affiliation. It is further submitted that the main ground for refusal of grant of affiliation is that only 49.4 decimals of land was standing in the name of the college that too on lease. Later on the college acquired through sale deeds, 31.23 decimals land on 01.02.2018, 87.12 decimals on 14.06.2019, 82.59 decimals of land on 18.06.2019 and 68 decimals of land on 21.06.2019. Learned counsel for the petitioner further submits that on the similar ground, the affiliation to Saraswati Arjun Eklavya Degree College, Jamui was refused by the respondent and Saraswati Arjun Eklavya Degree College, Jamui filed CWJC No.3119 of 2019.



This Court quashed the order in view of the law laid down by Eleven-Judge Bench of the Apex Court in the case of T.M.A.Pai Foundation & Ors. vs State of Karnataka & Ors., reported in (2002) 8 SCC 481, acknowledging the ground reality in the matter of imparting education that education cannot be imparted in absence of private players. The institution run by the State Government is not even enough to cater the need of 20% of the population seeking University education and a direction was issued to consider the case for grant of affiliation. In view of the order passed by this Court on 19.07.2019, the State of Bihar brought amendment in Section 3(f) of the existing statute approved vide letter No.BSU-16/86-1098/GS(I), dated 19.04.1986 in respect of its own land and leasehold land for the purpose of affiliation of educational institutions of Bihar and relaxed, for establishment of a college or institution not less than 5 acres of land in rural areas and 2.5 acres of land in urban areas is required. The college may owned the same land either being undisputed ownership or on leasehold. The leasehold period must be for a minimum period of 33 years with a minimum one time renewal clause. The land will be used for the college buildings, hostels, quarters, library, laboratory, playgrounds and green cover and there shall be realistic approach. Particularly in view of the enactment of Right to Education to every citizen, the State shall also allow the public



private participation in establishing the educational institution to impart quality education to the citizens but it does not mean that in the garb of allowing the private person to establish institution for the noble object of imparting quality education to citizens, the government should allow the private person or the institute to run on paper and distribute only certificates after realizing money from the non-attending students. There is no dearth of such institution.

From perusal of para 36 and 37 and onwards of this writ petition, it is apparent that the petition on behalf of the petitioner institution for grant of affiliation was filed in the year 2011. At the time of filing of the petition for grant of affiliation, the college owned only 34.95 decimals and 2.33 decimals of land that too on lease and admittedly the college did not fulfill the conditions for grant of affiliation but even then for the reasons best known to the University, the University officials recommended the petition of the petitioner's college for grant of affiliation to the Education Department. The petitioner himself stated in para 37 that he acquired the lands measuring 31.23 decimals, 87.12 decimals, 82.59 decimals and 68.00 decimals on 01.02.2018, 14.06.2019, 18.06.2019 and 21.06.2019. All the acquisition was made after refusal of grant of affiliation to the college of the petitioner, therefore, I do not find any illegality and the writ petition is dismissed.



However, the petitioner has got liberty to file fresh application for grant of affiliation before the concerned authority after fulfilling the criteria and on such the authority may consider the case of the petitioner in accordance with law for grant of affiliation without any unreasonable delay.

(Prabhat Kumar Jha, J)

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