

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3512 of 2017

Arising out of

Civil Writ Jurisdiction Case No.9771 of 2007

Prakash Kumar Thakur @ Prakash Thakur S/o Late Shiva Kant Thakur
Resident of Village - Sipahi Tola Baksha Ghat, P.S. K. Hat, Dist - Purnea.

... .. Petitioner/s

Versus

1. B. N. Mandal University through its Registrar, Laloo Nagar, Madhepura.
2. Purnea Univeristy, Purnea.
3. Vice Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura.
4. Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.
5. Principal, Purnea Mahila College, Purnea.
6. Vice Chancellor, Purnea University, Purnea.
7. Registrar, Purnea University, Purnea.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Kumari Ritambhara, Advocate
For the BNMU	:	Mr. Ritesh Kumar, Advocate
For the Purnea University	:	Mr. Rakesh Kumar Samrendra with Mr. Niranjana Kumar Singh, Advocates

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 04-09-2019

Heard learned counsel for the petitioner; learned
counsel for the B N Mandal University and learned counsel for
the Purnea University.

2. The petitioner has moved the Court alleging wilful
and deliberate violation of the order dated 07.04.2011 passed in
CWJC No. 9771 of 2007.

3. The writ petition was disposed off in the following
terms:



“As there is no counter affidavit and the resolution of the University dated 9.2.2006 declining compassionate appointment of the petitioner is also not on record, this Court would remit the matter back to the competent authority of the University who now will consider the case of the petitioner afresh in the light of the discussions and observations made above.

It is, however, made clear that this Court has not decided the question on merit as to whether the petitioner would be entitled for appointment on compassionate ground and its aforesaid observations has been made on the basis of oral stand taken by the learned counsel for the University. This Court thus while remitting the matter back to the University would direct its competent authority to consider the case of the petitioner strictly in accordance with law and therefore, this Court would expect the authorities of the University to give a fresh consideration to the case of the petitioner. Such exercise must be completed within a period of four months from the date of receipt/ production of a copy of this order. It will be open for the petitioner to also file a compact representation enclosing a copy of this order before the Registrar of the University wherein he may produce the certificate of his passing Class VIII examination (if he has so passed within five years of the death of her mother) and upon filing of such application the matter will be decided strictly in accordance with the policy of compassionate appointment within the time limit indicated above.”

4. From the pleadings and materials on record, especially the show cause filed on behalf of the Purnea University, it transpires that the order has been passed on 24.08.2019 with regard to the claim of the petitioner for



appointment on compassionate ground which has been rejected on the ground that at the relevant time, he was required to pass standard VIII within five years of the death of his mother but despite him having been called upon to come with the original certificate showing that he has passed standard VIII, he did not turn up.

5. In the application, Annexure-4 has been brought on record which is copy of the transfer certificate issued by the office of the District Superintendent of Education, Purnea dated 05.01.2004, from which, as per the entry, it transpires that the petitioner joined the school on 04.05.1995 and left on 31.12.1995. However, at item no. 10 of the certificate with regard to whether the student for entry into the next class had passed the annual examination, the remark was 'Yes'.

6. Learned counsel for the Purnea University pointed out that in the same item no. 10, the session was required to be disclosed which has not been filled up. He further pointed out that the so called certificate discloses that it has been issued from the office of the District Superintendent of Education, Purnea but has been signed by the Principal of the school and, that too, after eight years on 05.01.2004. It was further submitted that from 04.05.1995 till 31.12.1995, there was no



question of any annual examination, as the same is held in the months of February-March of the following year and, thus, such entry in the transfer certificate is of no consequence.

7. Learned counsel for the petitioner submitted that this is the only certificate issued by the authority.

8. The Court has perused the certificate and is of the considered opinion that it can in no way be said to be a certificate showing that the petitioner has passed standard VIII examination. Further, the contention of learned counsel for the Purnea University is correct that on the transfer certificate it is printed that it has been issued from the office of the District Superintendent of Education, Purnea but the same has been signed by the Principal of the school and, that too, after eight years, which has not been explained.

9. In view thereof, the Court finds that there is no wilful and deliberate violation of the order dated 07.04.2011 passed in CWJC No.9771 of 2007.

10. Accordingly, the application stands disposed off.

11. However, if within four weeks from today, the petitioner produces the original certificate showing that he has passed Class VIII examination within the period stipulated, as per the order of the writ Court, the same shall be considered by



the Purnea University and after its proper verification from the Issuing Authority, a decision shall be taken afresh with regard to appointment on compassionate ground of the petitioner, in accordance with law. It is made clear that if the petitioner fails to produce the original certificate in terms of the order of the writ Court within four weeks from today, the authorities shall not be obliged to consider the same and the matter would stand concluded.

(Ahsanuddin Amanullah, J)

Anjani/-

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