

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 200 of 2018**

Smt. Sharda Yadav W/o Sanjay Yadav, Aged About 30 Years Occupation Student (Pursuing B.Ed) At D.L.S. P.G. College, Ashok Nagar, Sarkanda, Bilaspur, District Bilaspur Chhattisgarh, R/o Aama Para, Ward No. 12, Bilha, Post And P.S. Bilha, Tehsil Belha, Revenue And Civil District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Higher Education, Mahanadi Bhawan, Naya Raipur, Revenue And Civil District Raipur Chhattisgarh.
2. Bilaspur University Through Registrar, Bilaspur, Revenue And Civil District Bilaspur Chhattisgarh.
3. D.L.S. P.G. College, Through Principal, Ashok Nagar, Sarkanda, Bilaspur, Tehsil Bilaspur, District Bilaspur Chhattisgarh.

---- Respondents**WPC No. 335 of 2018**

Smt. Rekha Yadav W/o Sumant Yadav Aged About 33 Years Occupation Student (Pursuing B. Ed) At D P Vipra Education College Bilaspur District Bilaspur Chhattisgarh R/o Kalibadi , Sarkanda Post And Police Station Sarkanda Tehsil Bilaspur Revenue And Civil District Bilaspur Chhattisgarh.

---- Appellant**Versus**

1. State Of Chhattisgarh Through Secretary Department Of Higher Education Mahanadi Bhawan Naya Raipur Revenue And Civil District Raipur Chhattisgarh.
2. Bilaspur University Through Registrar Bilaspur Revenue And Civil District Bilaspur Chhattisgarh.
3. D. P. Vipra Education College Through Principal , Bilaspur Revenue And Civil District Bilaspur Chhattisgarh.

---- Respondents

For Appellants	: Shri Surfaraj Khan, Advocate.
For Respondent/State	: Shri Gagan Tiwari, Deputy Government Advocate.
For Respondent/University	: Shri Neeraj Choubey, Advocate.
For Respondent/College	: Shri Sudeep Agrawal, Advocate.

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

21/01/2019

Per Ajay Kumar Tripathi, Chief Justice

1. Heard counsel for the parties.
2. Writ appeal has been preferred against the order dated 22.03.2018 passed by the learned Single Judge who refused to interfere with the order dated 19.12.2017 by virtue of which the Bilaspur University cancelled the eligibility certificate of the Appellant from participating in B.Ed. examination.
3. Besides the present Appellant, one Smt. Rekha Yadav had also preferred writ application, which was Writ Petition (C) No.335 of 2018 wherein she sought certain relief including interim protection to permit her to participate in the B.Ed. examination which was going to be held. The learned Single Judge allowed such a privilege by order dated 26.02.2018 but also recorded that the result will not be declared of the B.Ed. examination without the leave of the Court. Subsequently, the writ application of Smt. Rekha Yadav was ordered to be listed before a Division Bench to avoid any conflict of view or relief in the above two cases.
4. Admitted position is that the present Appellant and the Petitioner of Writ Petition (C) No.335 of 2018 had taken admission in B.Ed. Course under the Madhya Pradesh Bhoj Open University, Bhopal. It is a deemed University set up in the State of Madhya Pradesh. This Open University exercised jurisdiction even under the undivided State, out of which, Chhattisgarh was carved out on 01.11.2000. It is said that various study centres were used for imparting education including the geographical area which now constitutes State of Chhattisgarh. However, after the creation of the State of Chhattisgarh and the decision rendered by the Hon'ble Supreme Court in the case of *Prof. Yashpal v. State of Chhattisgarh*

reported in (2005) 5 SCC 420, the statutory Universities, especially, private Universities were debarred from operating beyond the geographical boundary of the State where they were allowed to be set up.

5. After the authoritative pronouncement of the Supreme Court the territorial jurisdiction of the Bhoj Open University could only extend to the geographical boundary of the State of Madhya Pradesh and they could not be allowed to have extra territorial jurisdiction. Such position or declaration of law by the Apex Court still holds the ground and therefore, it was held that at least from the time the law was declared by the Apex Court, if not, from the date the State of Chhattisgarh was established, no study centre could operate beyond the territory of the State of Madhya Pradesh, therefore, there was no occasion for the Bhoj Open University to take admission and allow education in any study centers in the State of Chhattisgarh.

6. The law being what it is, the learned Single Judge taking cue from the ratio of Apex Court held that the Bhoj University could not continue with any study centers or allow participation of any student pursuing studies in the State of Chhattisgarh to be a candidate of Bhoj University. There was no obligation upon any University of the State of Chhattisgarh to give any recognition or leeway to any student who has obtained or was in the process obtaining a degree from Bhoj University.

7. The view taken by the learned Single Judge in his order dated 22.03.2018 seems to be correct and therefore does not require interference in appeal.

8. The law being what it is, the decision of the Bilaspur University as communicated to the writ Petitioner, namely, Smt. Rekha Yadav in Writ Petition (C) No.335 of 2018 also for the same set of logic and principle cannot be interfered with the interim order which may have been given by the learned Single Judge for participation in the examination but bar in declaration of the result to that extent

has lost its meaning since such studies were illegal. The result of the Petitioner, namely, Smt. Rekha Yadav cannot be directed to be declared by the University.

9. In the result, Writ appeal No.200 of 2018 as well as Writ Petition (C) No.335 of 2018 are fit to be dismissed.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE

Yogesh