

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4473 of 2020

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Tapindu Institute of Higher Studies (TIHS) Cantt. Road, Saguna More, Khagaul, Danapur, patna, Bihar 801105 through Rahul Halsana (male, aged 31 years), S/o Khodabor Halsana, R/o House No. LIG 96, Katwa- I, Bardhaman, West Bengal, 713130.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Education Department, Government of Bihar, New Secretariat, Patna - 800015.
2. The Vice Chancellor, Patliputra University, Chitragupta Nagar Road, Munna Chak, Kankarbagh, Bankman Colony, Patna, Bihar 800020.
3. The Registrar, Patliputra University, Chitragupta Nagar Road, Munna Chak, Kankarbagh, Bankman Colony, Patna - 800020.
4. The Vice Chancellor Magadh University, Bodh Gaya, Gaya, Bihar - 824234.
5. The Registrar Magadh University Bodh Gaya, Gaya, Bihar 824234.
6. The Commissioner- Cum Secretary, Primary, Secondary and Higher Education, government of Bihar, New Secretariat, Vikas Bhawan, Patna 800015.
7. The State of Bihar through its Chief Secretary, Department of Art, Culture and Youth, Government of Bihar, Old Secretariat, Patna.
8. The Regional Director, National Council of Teacher Education, Eastern Regional Committee, 15, Neelkamal Nagar, Nayapalli, Bhubneshwar, Odisha 751012.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms.Mayuri, Advocate
For the State	:	Mr.Madanjeet Kumar (Gp20)
For the M.U.	:	Mr. Abhishek Kumar, Advocate
For the P.P.U	:	Mr. P.K.Verma, Senior Advocate
		Dr. Anand Kumar, Advocate.
For NCTE	:	Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 23-06-2020 Heard learned counsel for the parties.

After the order dated 13.05.2020, the Vice Chancellor Patliputra University has filed a counter affidavit. In para-6 of which statement has been made that Patliputra University has



taken all the necessary steps to ensure the interest of affiliated institution of the erstwhile Magadh University which have been recognized by NCTE or similar such apex bodies and granting them affiliation from Patliputra University.

In different paragraphs of the counter affidavit, there are statements that institution of question was granted recognition by NCTE vide letter dated 30.05.2015 but it was subject to certain condition enumerated in paras-4 and 5 whereof. Paras 4 and 5 of the letter dated 30.5.2015 is quoted below for ready reference:-

“4. And whereas, it has been decided to permit the institution to have one basic unit of 100 students with two sections of 50 students each subject to fulfill following conditions, namely,

(i) The institution shall create additional facilities that include (a) additional built-up area, (b) additional infrastructure, (c) additional funds, (d) adhere to staff norms as per Regulations, 2014 and inform Regional Committee with required documents by October 31,2015.

(ii) The applicant-institution for additional unit will be required to submit the required documents such as land documents, Encumbrance Certificate (EC). Land Use



Certificate (LUC) and the Building Plan (BP) in the specified proforma available on the website to the Regional Committee in proof of having provided additional facilities before October 31,2015. Building Completion Certificate (BCC) may be given along with other documents if available, otherwise it can also be given to the visiting Team of the time of inspection.

(iii) The Regional Committees shall arrange for verification of documents, inspection of these premises and check adherence to these conditions by 20 Feb. 2016. if it is found by the Regional Committee that the institution fails to comply with these requirements, the institutions shall not be permitted to admit students for the academic year 2016-2017.

5. Now therefore, in the light of the above and in terms of Section 15(3) (a) of NCTE Act and in accordance with the Regulations, 2014, the Eastern Regional Committee, NCTE hereby grants permission to Tapindu Institute of Higher Studies, Cantt. Road, Saguna More, Khagaul, Patna, Bihar-801105 for conducting B.P.Ed. Programme of two years duration for one basic unit of 100 students with two sections of 50 each from the academic session 2015-2016 subject to fulfillment of the conditions



mentioned herein before 31.10.2015.”

From perusal of the counter affidavit filed on behalf of Patliputra University it is evident that the predecessor Magadh University on 11.12.2010 requested the Director, Youth Sports, Arts and Culture for grant of affiliation to the petitioner institute for one year B.P.Ed course. Thus, it is crystal clear that the Magadh University has completed its job in connection with grant of affiliation to B.P.Ed course. In para-14 statement has been made that the institution in question was inspected by an inspecting team of the University on 09.11.2019 and the report was submitted on 10.11.2019, on perusal whereof, the University finds that the inspection report is not in tune with para-4 and 5 of the letter dated 30.05.2015 and therefore, they have decided to ask the team to revisit the spot and to verify the condition as per para-4 and 5 of the recognition letter and for that they wanted four weeks time.

Mr. Sunil Kumar Singh, learned counsel for NCTE would submit that the State and the University has absolutely no business to sit in appeal against the decision of the NCTE as the NCTE is the Apex body and so long the institution was enjoying the recognition by the NCTE, the affiliation body is under obligation to grant affiliation and extend all the benefits of affiliation. In case of deficiency the University can report to



NCTE for appropriate action.

Law in this regard is well settled by series of judgments of the Apex Court that so long the institution is recognized by the NCTE, the affiliating body has no business to sit in appeal. In the event there is departure from the standard or norms. The affiliating body can only recommend the NCTE for corrective action but they cannot take decision contrary to the decision granting recognition.

Accordingly, the writ petition is disposed of with the direction to the University to take all steps in furtherance of grant of affiliation and conducting examination of the institution in question by the Patliputra University as the erstwhile Magadh University has granted affiliation to the institution for B.Ed course and also recommended to the State for grant of affiliation to B.P.Ed course.

Considering the uncalled for litigation reaching this Court, it would be appropriate that this order be communicated to the Additional Chief Secretary-cum-Principal Secretary, Education Department Bihar, Patna so that all the University in the State of Bihar are informed that they have to abide by the decision of the Apex body in the matter of grant of affiliation and conducting examination.



Necessary follow up action may be taken by the respondent Patliputra University within a period of one month from today. In the event there is any requirement of approval of the regulation/statute or ordinance for conducting examination of any approved course by the Hon'ble Chancellor, the University will take steps in this regard. The Court expects that Hon'ble Chancellor will do the needful at the earliest in the larger interest of the students of the University and accord approval without any delay.

With the aforesaid direction and observation, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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