

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5478 of 2020

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Ruby Rani Daughter of Shri Kamleshwar Ram, Resident of Qtr No. 38/D 1
BSNL Officers Quarter, Near Haj Bhawan, Harding Road, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Human Resource Development, Government of Bihar, Patna.
3. The Director, Higher Education, Government of Bihar, Patna.
4. The Chancellor of the Universities of Bihar, Governor House, Patna through the O.S.D.
5. The Vice Chancellor, Magadh University, Bodh Gaya.
6. Magadh University through its Registrar, BodhGaya.
7. The Registrar, Magadh University, BodhGaya.
8. The Head of the Department, Dept of Education, Magadh University, Bodh Gaya.
9. The Director of Education, Magadh University, BodhGaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar Thakur, Advocate
For the Respondent/s : Mr. Jitendra Kumar Roy-1, SC-13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 08-07-2020 Heard learned counsel for the petitioner and the respondents.

The petitioner had filed the present writ application for a direction to the respondents to allow the petitioner to appear and participate in the third semester of M.Ed. Examination for the academic session 2017-2019 and subsequent examination of the said course.

Counsel appearing on behalf of the petitioner would



submit that candidates having attended lessor classes have been allowed to appear in examination, whereas the petitioner has been discriminated.

On consideration of the materials available on the record and submissions made on behalf of the petitioner, it appears that it is not the case of the petitioner that the petitioner has attended classes as per the statutory requirement and yet she has been discriminated. If some candidates have been otherwise allowed illegally to appear in the examination without having attended classes as per the statutory requirement, that cannot be a ground to permit the petitioner also to appear in the examination as it would amount to perpetuate the illegality committed by the respondents.

Reference in this connection may be made to the judgment of the Apex Court in the case of **State of UP and Ors. v. Raj Kumar Sharma : (2006) 3 SCC 330**, para-15 of the said judgments reads as follows:-

“15. Even if in some cases appointments have been made by mistake or wrongly that does not confer any right on another person. Article 14 of the Constitution does not envisage negative equality, and if the State committed the mistake it cannot be forced to perpetuate the same mistake. (See:



Snehprabha v. State of U.P. & Ors. (AIR 1996 SC 540), Secretary, Jaipur Development Authority, Jaipur, v. Daulat Mal Jain & Ors. (1997 (1) SCC 35), State of Haryana and Ors. v. Ram Kumar Mann (1997 (3) SCC 321), Faridabad C.T. Scan Centre v. D.G. Health Services & Ors. (1997 (7) SCC 752), Jalandhar Improvement Trust, V. Sampuran Singh (AIR 1999 SC 1347), State of Punjab and Others v. Dr. Rajeev Sarwal (1999 (9) SCC 240), Yogesh Kumar and Ors. v. Govt. of NCT, Delhi and Ors. (2003 (3) SCC 548), Union of India and Anr. v. International Trading Co. and Anr. (2003 (5) SCC 437) and Kastha Niwarak G.S.S. Maryadit, Indore v. President, Indore Development Authority (JT 2006 (2) SC 259).”

In the case of **State of Orissa & Anr vs Mamata Mohanty : (2011) 3 SCC 436**, in para-56 the Apex Court has held as follows:-

“56. It is a settled legal proposition that Article 14 is not meant to perpetuate illegality and it does not envisage negative equality. Thus, even if some other similarly situated persons have been granted some benefit inadvertently or by mistake, such order does not confer any legal right on the petitioner to get the same relief. (Vide



Chandigarh Administration & Anr v. Jagjit Singh & Anr., AIR 1995 SC 705; Yogesh Kumar & Ors. v. Government of NCT Delhi & Ors., AIR 2003 SC 1241; M/s Anand Buttons Ltd. etc. v. State of Haryana Ors., AIR 2005 SC 565; K.K. Bhalla v. State of M.P. & Ors., AIR 2006 SC 898; Maharaj Krishan Bhatt & Anr. v. State of Jammu & Kashmir & Ors., (2008) 9 SCC 24; Upendra Narayan Singh (supra); and Union of India & Anr. v. Kartick Chandra Mondal & Anr., AIR 2010 SC 3455).”

In the case of **Basawaraj & Anr vs Spl.Laq Officer (2013)14 SCC 81**, in para-8 the Hon’ble Apex Court has held as follows:-

“8. It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or



court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a Judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, Article 14 cannot be stretched too far for otherwise it would make functioning of administration impossible. (Vide: Chandigarh Administration & Anr. v. Jagjit Singh & Anr., AIR 1995 SC 705, M/s. Anand Button Ltd. v. State of Haryana & Ors., AIR 2005 SC 565; K.K. Bhalla v. State of M.P. & Ors., AIR 2006 SC 898; and Fuljit Kaur v. State of Punjab, AIR 2010 SC 1937).”

Considering the aforesaid, the Court does not find any merit in the writ petition. It is, accordingly, dismissed.

(Anil Kumar Upadhyay, J)

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