

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22571 of 2019

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Bhim Rao Gautam Son of Ram Kewal Ram, Resident of Pragati Ansh, House No. 1972, South East of Health Institute, New Patna Colony, P.S. Beur, District- Patna, Bihar- 800002.

... .. Petitioner/s

Versus

1. The Patna University through the Registrar, Ashok Rajpath, Near Patna College, Patna, Bihar- 800005
2. The Hon'ble Vice-Chancellor, Patna University, Ashok Rajpath, Patna, Bihar-800005
3. The Pro- Vice Chancellor, Patna University, Ashok Rajpath, Patna, Bihar-800005
4. The Registrar, Patna University, Ashok Rajpath, Patna, Bihar-800005
5. The Controller of Examination, Patna University, Ashok Rajpath, Patna, Bihar-800005
6. The Principal , Patna Law College, Patna University, Mahendru , Rani Ghat, Patna, Bihar-800006
7. The Hon'ble Chancellor, Raj Bhawan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumar Kaushik
For the Respondent/s : Mr.Rajendra Kumar Giri

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 10-01-2020 Heard Mr. Kumar Kaushik, the learned counsel for

the petitioner, and the learned counsel for the Patna University.

The petitioner filed this writ petition for following
reliefs:-

i. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to allow the petitioner to appear in the 3rd Semester Examination of LL.B. Course (2018-21 Sessions) scheduled to be held from 03.12.2019, the result of which may be directed to be kept in



abeyance until the petitioner is given an opportunity to clear his 2nd Semester Examination in the Supplementary Examination.

ii. For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to conduct Special Supplementary Examination for the petitioner who was debarred from appearing in the Supplementary Examination for 2nd Semester presumably on the ground that only failed candidates can appear in Supplementary Examination under LL.B Regulations (2009) which is not meant for those who were absent during the End Semester Examination.

iii. For issuance of an order, direction or a writ of certiorari for quashing and setting aside the part of the LL.B Regulations (2009) by which the Supplementary Examination is required to be conducted only for those candidates who failed in the End Semester Examination, to the extent to which it excludes the candidates who were absent in the End Semester Examination.

iv. For issuance of an order, direction or a appropriate writ in the interest of justice, equity and good conscience.

The only question arises for consideration whether the respondent authorities are justified in not allowing the petitioner to appear in the Supplementary Examination on the basis of LL. B. Regulation, 2009 excluding the candidate, who was absent in End Semester Examination?

The learned counsel for the petitioner submits that the petitioner was admitted in Patna Law College in the year 2018



for the session 2018-21. The petitioner passed his Semester-I examination held in the month of December, 2018 and thereafter the petitioner was admitted to Semester-II of LL. B course. After completion of course admit card was issued to the petitioner to appear in the Semester-II end examination which was held in the month of May, 2019 but unfortunately the petitioner could not appear in the Semester-II end examination as he met with an accident on 23.05.2019 and got injuries in his hand. The petitioner was under treatment and the doctor advised him to take rest. Therefore, the petitioner could not appear in the Semester-II end examination and mark sheet was issued showing that petitioner was absent in the Semester-II end examination. According to Patna University LL. B Regulation, 2009 the University is obliged to hold a Supplementary Examination within 60 days of the end term examination of each Semester to provide opportunity to such students to clear their papers in which they have failed. The petitioner applied for Supplementary Examination which was held from 08.08.2019. The examination form was accepted. The petitioner also deposited prescribed fee to appear in the examination which was accepted but at the last moment the petitioner was informed that he was not allowed to sit in the examination. The petitioner filed



representation before the respondent No.3 on 03.08.2019 requesting him to allow the petitioner to appear in the Supplementary Examination but permission was not granted. It is further submitted that even thereafter the petitioner was admitted in the 3rd Semester and he was attending his classes since then. The petitioner deposited the admission fee of the second part (3rd Semester) which was accepted. The 3rd Semester end examination was scheduled to be held from 03.12.2019 but the petitioner was not allowed to appear in the Semester-III end examination. It is further submitted that the respondent authorities have cited LL.B. Regulation, 2009, while disallowing the petitioner from appearing in the Supplementary Examination conducted for the Semester-II end examination stating that only such candidates who have failed in the term examination are allowed to appear but the petitioner has learnt that even if students who appeared in one subject and were absent in other subjects have been allowed to appear in the Supplementary Examination for all subjects including those subjects in which they were absent during the examination. It is submitted that a student, namely, Kunal Govind of batch 2018-21 appeared in one subject in the Semester-I end examination held in the month of December, 2018 and he secured 56 marks



and he was absent in other three papers but he was allowed in the Semester-II end examination conducted in May, 2019 and he passed. The respondent authorities allowed him to appear in the Supplementary Examination conducted for the Semester-I end examination and the aforesaid student cleared all the papers and the result of Supplementary Examination of Semester-I and result of Semester-II end examination were published and he was declared pass. Similarly, Rajeshwar Sah, another student of 2018-21 batch, appeared in one subject of the Semester-I end examination and he remained absent in other three papers but he was allowed to appear in the Semester-II end examination conducted in May, 2019 and he was declared pass. Rajeshwar Sah secured 60 marks in the Semester-I end examination but he was admitted in the 3rd Semester. Therefore, the authorities have adopted discriminatory yardstick by not allowing the petitioner to appear in the Supplementary Examination for Semester-II and in the Semester-III end examination.

The learned counsel for the Patna University has submitted that since the petitioner remained absent in all the subjects in the Semester-II end examination, in view of the LL. B. Regulation, 2009, the petitioner cannot be allowed to appear in the Supplementary Examination for Semester-II end



examination. Of course, the petitioner was admitted in Semester-III but he cannot be allowed to appear in the Semester-III end examination unless he cleared the Semester-II end examination in view of LL. B. Regulation, 2009 and that is why admit card was not issued to the petitioner.

In order to decide the question it is relevant to reproduce the relevant portion of LL. B. Regulation, 2009 which reads thus:-

“IX Promotion and University Examination

- a. University shall conduct University Examinations at the end of each Semester. The result of such examination shall be published by the University within 30 days of the Examinations.*
- b. No student shall be allowed to appear at LL. B. 1st Semester Examinations of Patna University unless he has been sent-up for the said Examinations.*
- c. A student appearing in the University Examinations of 1st Semester shall be promoted to 2nd Semester. But no student shall be permitted to appear in the 2nd Semester and term examination unless he has passed the 1st Semester Examinations and has been declared sent-up for in 2nd Semester Examination.*
- d. A student appearing in the 2nd Semester Examination shall be promoted to 3rd Semester. But no student shall be permitted to appear in the 3rd Semester and term examinations unless he has passed 2nd Semester Examinations and has been declared sent-up for in 3rd Semester Examination.*
- e. A student appearing in the 3rd Semester Examination shall be promoted to 4th Semester. But no student shall be permitted to appear in the 4th Semester and term examinations unless he has passed 3rd Semester Examinations and has been declared sent-up for in 4th Semester Examination.*
- f. A student appearing in the 4th Semester Examination shall be promoted to 5th Semester. But no student shall be permitted to appear in the 5th Semester and term examinations unless he has passed 4th Semester Examinations and has been declared sent-up for in 5th Semester Examination.*



g. A student appearing in the 5th Semester Examination shall be promoted to 6th Semester. But no student shall be permitted to appear in the 6th Semester and term examinations unless he has passed 5th Semester Examinations and has been declared sent-up for in 6th Semester Examination.

Supplementary Examinations

University shall hold a Supplementary Examination within 60 days of the end term Examinations of each Semester to provide an opportunity to such students to clear their papers in which they have failed. Students would be required to appear in Supplementary Examinations only in those paper/ papers in which they have failed.

A student shall be allowed only three consecutive chances to appear in end term Examinations of any Semester to pass in that Semester. If he is unable to pass that Semester in three consecutive attempts, his/ her enrollment will automatically stand cancelled.”

From perusal of resolution with regard to Supplementary Examination it is evident that the University is obliged to hold supplementary examination within 60 days of the end term Examination of each Semester to provide an opportunity to such students to clear their papers in which they have failed but it appears that Kunal Govind, a student of LL. B. batch 2018-21, who appeared in only one subject of Semester-I end examination and did not appear in three other subjects, he was allowed to appear in the Supplementary Examination. The University authorities considered his case as a student who failed in the Semester end term examination. Similarly, Rajeshwar Sah, a student of LL. B. batch 2018-21, who also appeared in only one subject of Semester-I end examination was



allowed to appear in the 2nd Semester and 3rd Semester as well without clearing the Semester-I end examination. The Supplementary Examination is meant for those students who either failed in all/any subject or could not be able to appear at the Semester end examination on account of some unavoidable circumstances. If such students are not allowed to appear at the examination they will loose one year and they shall be able to appear only in the next Semester end examination. From perusal of case of Kunal Govind and Rajeshwar Sah, it is evident that the authorities of the University have allowed such students to appear in the Supplementary Examination who had not failed but they did not appear in three papers. It is further evident from perusal of clause-D of LL.B. Regulation, 2009 that a student appearing in the 2nd Semester Examination shall be promoted to 3rd Semester but he shall not be permitted to appear in 3rd Semester term end examination unless he has passed 2nd Semester examination and has been declared sent up for in 3rd Semester examination but it appears that the petitioner did not appear in the 2nd Semester end term examination but he was promoted in the 3rd Semester and now the respondent authorities are not allowing him to take the examination of 3rd Semester end which is already over. Therefore, I find that the University had



adopted discriminatory method by not allowing the petitioner to appear in the Supplementary Examination as well as 3rd Semester end term examination even though the petitioner was promoted in the 3rd Semester without clearing or appearing in the 2nd Semester end term examination. Therefore, I find that the respondents are not justified by not allowing the petitioner to appear in the supplementary examination of 2nd Semester and 3rd Semester end examination. Accordingly, I dispose of this writ petition with a direction to the respondents to allow the petitioner to appear at next coming supplementary or end term Semester examination of 2nd Semester and 3rd Semester, if the petitioner is otherwise eligible to appear at the examination so that the petitioner may not loose his academic session. The writ petition stands disposed of accordingly.

(Prabhat Kumar Jha, J)

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