

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3288 of 2020

Arvind Kumar Anshu Son of Ashok Gupta R/o Village-Bakhri P.O.-
Dhamsena P.S.-Sourbazar District-Saharsa.

... .. Petitioner/s

Versus

1. The Bhupendra Narayan Mandal University Laloo Nagar Madhepura through its Vice-Chancellor Bhupendra Narayan Mandal University Madhepura.
2. The Examination Controller Bhupendra Narayan Mandal University Laloo Nagar Madhepura.
3. Principal, MLT College Saharsa PS and District Saharsa.
4. Coordinator, BCA Department MLT College Saharsa.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Diwakar Prasad Singh, Advocate
For the University	:	Mr. Ritesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 25-02-2020 Heard both sides.

The petitioner in this writ petition seeks direction upon the respondents to publish the result of the petitioner's B.C.A. Examination for the session 2013-16, which was kept pending for want of marks of Semester-II.

The only question arises for consideration in this writ petition is whether the respondent-University is justified in withholding the result of the petitioner for its publication due to non-availability of the marks of Semester-II?

Admittedly the petitioner got admitted in M.L.T. College, a constituent unit of B.N. Mandal University, Madhepura in B.C.A. Course in session 2013-16 on the basis of open



competition for selection and admission in B.C.A. Degree Course. The petitioner passed his B.C.A. Semester-I Examination and he was promoted to Semester-II. In Semester-II Examination, the petitioner failed in one subject, namely, Data Structure. The University published the result and declared the petitioner promoted. The petitioner subsequently cleared his III, IV, V and VI Semesters regularly and passed in all the Semesters but the petitioner appeared in Semester-II Examination held in the year 2018 and got 317 marks out of 400 marks. The petitioner obtained 73 marks in Data Structure but the result of the petitioner is withheld.

The University filed counter affidavit opposing the publication of the result of the petitioner on the ground that in view of Regulation IX(b) of Regulation of the University, the petitioner was promoted in B.C.A. IInd Semester Examination in 2014 as he did not qualify the paper Data Structure. The petitioner passed B.C.A. IIIrd Semester in December, 2014, IVth Semester Examination in June, 2015, Vth Semester Examination in December, 2015 and then he appeared in B.C.A. IInd Semester Examination in June, 2018. The Regulation IX(b) of the Examination Regulation of the University says that a candidate having completed the course fails to appear at the examination or fails to pass the examination or does not clear any paper shall be



allowed to appear at the subsequent examinations in only that/those parts in which he/she has failed or absented himself/herself on the payment of prescribed examination fee without being required to go through the course again. However, this opportunity shall be given in only two more examinations within a period not exceeding 3 years excluding the main examination held at the end of the session.

Mr. Ritesh, the learned counsel for the University submitted that on account of this fact, the result of the petitioner has been kept pending. It is further submitted that this Court in the case of Ruchi Rachna (CWJC No.6114 of 2018), Aman Kumar Tiwari (CWJC No.17195 of 2018) and Sima Bharti (CWJC No.4605 of 2018) has held that result of a candidate of any course cannot be published in violation of any Regulation of the Examination Regulation of the University.

It is evident from the submissions and on perusal of the records particularly Annexures 4 and 5 that the examination to be held in the month of December, 2013 was held in the month of August, 2014 and the next examination was to be held in the month of June, 2014 was held in the month of August, 2015, the examination to be held in the month of June, 2015 was held in year 2017 and the examination to be held in the month of December, 2015 was held in the year 2017. The petitioner cleared



his last semester in the year 2017. In view of the Regulation IX(b) of the Regulation of B.N. Mandal University, it is apparent that the candidate having completed the course fails to appear at the examination or fails to pass the examination or does not clear any paper shall be allowed to appear at the subsequent examinations in only that/those parts in which he/she has failed or absented himself/herself on the payment of prescribed examination fee without being required to go through the course again. However, this opportunity shall be given in only two more examinations within a period not exceeding 3 years. The petitioner is student of 2013-16 batch and he failed in one subject, Data Structure, in Semester-II. The examination of Semester-II appears to have been held in the year 2015. The petitioner cleared his all other Semester without being failed in any other Semester in the year 2017. The petitioner also appeared in all the subjects of Semester-II in the year 2018. Three years stipulation as contained in Regulation IX(b) provides that such candidate may appear in two more examination within a period of three years but the petitioner passed the examination in second attempt within three years as Semester-II examination of the petitioner was held in the month of August, 2015 and he cleared the IInd Semester Examination in the year 2018. Thus, I find that when the University did not stop the petitioner from appearing in all the subjects of Semester-II and



now the University being duty bound to follow the principle of promissory estoppel cannot withhold the result of the petitioner. I have also perused the judgment on which the learned counsel for the University placed his reliance and the facts of all those cases are quite different from the facts of the present case. In the present case, I find that the petitioner has not violated any Regulation save and except he appeared in all the subjects of Semester-II, but for that the University had allowed him to appear in all the subjects and now the University on the principle of promissory estoppel cannot withhold the publication of the result of the petitioner on the ground that the petitioner appeared in all the subjects of Semester-II.

In the result, the writ petition is allowed. The University is directed to publish the result of the petitioner within 30 days from the date of receipt of this order.

(Prabhat Kumar Jha, J)

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