

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11923 of 2021

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Manorama Kumari, D/o Chandra Shekhar Yadav and Wife of Sanjay Yadav,
Resident of Village-Bhargama, Police Station-Shekhpora, District-Araria.

... .. Petitioner/s

Versus

1. The B.N. Mandal University Laloo Nagar, Madhepura through its Vice Chancellor.
2. The Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.
3. The Examination Controller, B.N. Mandal University, Laloo Nagar, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad, Advocate
For the Respondent/s	:	Mr. Shashi Bhushan Singh, Advocate
		Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 08-12-2021

The petitioner in the present writ application under Article 226 of the Constitution of India is seeking a direction upon the respondent B.N. Mandal University, Madhepura (for short the University) to declare her result of Bachelor of Arts in Psychology (Hons.) Part-III Examination, 2018 held in 2019. It is her grievance that though the result was published but her result has been withheld.

2. Admitted facts of the case are that the petitioner was admitted in B.A. (Hons.) course in the session 2012-13 with her Registration No. 53549/2013. She appeared in B.A. Part-I (Hons.) Examination, 2013, but she failed. In 2014, she did not appear in



B.A. Part I examination. She appeared in B.A. Part I examination in 2015 and obtained 12 marks in R.B. (Rashtrabhasha) Hindi and 6+19= 25 marks in Psychology (two papers) and 34 marks in practical and was thus declared disqualified. She again appeared in B.A. Part I examination in the year 2016 only in R.B. Hindi and did not appear in Honours papers. She had scored 33 marks in R.B. Hindi. In the year 2017, she appeared in B.A. Part I examination and obtained 37+40 = (2 papers of Psychology). Her appearance in B.A. Part I examination in 2017 itself was in contravention of the Examination Regulation of the University, specifically Clause 7.1 thereof, which provides that if a student fails to appear in examination for not more than two subjects in B.A. (General/ Honours) Part I/II examination he/she shall be promoted to the next higher class but shall not be eligible for admission to B.A. (General) or B.A. (Hons.) Part III class unless he/ she passes B.A. (General) or B.A. (Hons.) Part I examination in the subject concerned. It further provides that the facility for appearing in such carry over subject/ subjects shall be available for a student at not more than three consecutive examinations.

3. It is the case of the University that the petitioner was entitled to appear in B.A. Part I examinations in the years 2014, 2015 and 2016 by virtue of the Examination Regulation. She was



debarred from appearing in the examination in the year 2017 and accordingly her result has not been published.

4. I have heard Mr. Umesh Prasad, learned counsel appearing on behalf of the petitioner and Mr. Shashi Bhushan Singh, learned counsel for the University.

5. Learned counsel appearing on behalf of the petitioner has submitted that once the petitioner was allowed to appear in B.A. Part III Examination, 2018, her result could not have been withheld by the University on technical grounds. He has placed reliance on Supreme Court's decision in case of ***Shri Krishan vs. Kurukshetra University*** reported in ***1976 (1) SCC 311***. He has, however, not been able to dispute the factual aspect that in terms of Regulation 7.1 of the Examination Regulations the petitioner was not eligible to appear in Part III examination as she had not cleared B.A. Part I examination.

6. Mr. Shashi Bhushan Singh, learned counsel appearing on behalf of the University opposing the petitioner's claim has relied on Division Bench Decision of this Court rendered on 07.01.2015 in L.P.A. No. 904 of 2014 (***Mihir Kumar Jha vs. Bhupendra Narayan Mandal University & Ors.***). Reliance has also been placed on another Division Bench decision of this Court in case of ***Sunil Kumar vs. Bhupendra***



Narayan Mandal University & Ors. reported in ***2020(4) PLJR 129***. Reference has also been made to a decision of this Court rendered on 04.01.2021 in CWJC No. 7882 of 2020 (***Md. Helal vs. The State of Bihar & Ors.***).

7. Considering the nature of controversy, it would be apt to notice Regulation 7.1 of the Examination Regulation of the University which reads as under :-

“7.1 There shall be University examination at the end of the first, the second and the third years of study to be known respectively as the B.A. (General/ Honours) Part I Part II and Part III examination. No student shall be admitted to the B.A. (General) or B.A. (Honours) Part II class unless he has passed the B.A. (General) or B.A. (Honours) Part I examination and to the Part III class unless he has passed the Part II examination.

Provided that at a student fails in or fails to appear at, not more than two subjects at the B.A. (General/ Honours) Part I/II examination he shall be promoted to the next higher class but he shall not be eligible for admission to the B.A. (General) or B.A. (Honours) Part III class unless he has passed the B.A. (General) or B.A. (Honours) Part I examination in the subject/



subjects concerned.

Provided further that this facility for appearing in such carry over subject/ subjects shall be available to a student at not more than three consecutive examinations.”

8. The Regulation, in no uncertain terms, provides that a student who fails to appear at not more than two subjects at B.A. (General/Hons.) Part I/II examination he/ she shall be promoted to the next higher class. However, he/ she shall not be eligible for admission to B.A. (General) or B.A. (Hons.) Part III class unless he/ she has passed B.A. (General) or B.A. (Hons.) Part I/II examination in the subject concerned. The second proviso prescribes that the facility for appearing on such carry over subject/ subjects shall be available to a student at not more than three consecutive examinations.

9. By virtue of the said Regulation, the petitioner was entitled to appear at B.A. Part I examination for the years 2014, 2015 and 2016. She appeared rather in 2017, which was impermissible. Evidently, she was allowed to appear for B.A. Part III examination in breach of the Examination Regulations.

10. The Division Bench in case of **Mihir Kumar Jha** (supra) relying on the same Regulation 7.1 of the Examination Regulations refused to grant relief of supply of mark-sheet and



provisional certificate of examination of a candidate of having passed B.A. Part III examination. While refusing to grant the said relief the Division Bench did take into account the Supreme Court's decision in case of ***Shri Krishan*** (supra).

11. In case of ***Sunil Kumar*** (supra) this Court had to again deal with a situation where a candidate was allowed to appear in the examination contrary to Examination Regulations of the University. Distinguishing the Supreme Court's decision in case of ***Guru Nanak Dev University vs. Sanjay Kumar Katwal & Anr.*** reported in ***(2009) 1 SCC 610***, the Division Bench held in paragraph 7 that failure in sessional work entails the consequence of re-admission. In the said case, a private institution had facilitated appearing of the appellant of that case in the examination with no lapse on the part of the University. The Division Bench held that the same could not be a ground to bind or estop the University on account of its conduct, requiring this Court to issue direction to the University to declare the results.

12. Similar plea taken before this Court in case of ***Sima Bharti vs. State of Bihar & Ors.*** (CWJC No. 4605 of 2018) was rejected by an order dated 17.05.2018 upon noticing the fact that the permission granted to the petitioner of that case to appear in Part III examination itself was found to be contrary to the



Examination Regulations. Further in a decision rendered in case of ***Ruchi Rachna vs. The State of Bihar & Ors.*** (CWJC No. 6114 of 2018) this Court has held as under :-

*“In the background of absence of any dispute that the petitioner papered fourth time after having failed in her three attempts to clear 3rd Semester Examination, this Court cannot issue a mandamus contrary to the provisions under the Ordinance. No relief, as sought in the present application, can be granted. The decision rendered by this Court in case of **Ranjeet Kumar vs. V.C., J.P. University** (supra), does not lay down that even if a student is allowed to appear for examination against the Regulations, his/ her result shall be liable to be published because he/ she was allowed to appear. Matter would have been different, had the petitioner appeared fourth time in the 3rd Semester Examination after going through the course again as stipulated in Clause IX(b) of the Ordinance.”*

13. In case of ***Md. Helal*** (supra) this Court rejecting the similar contention held in paragraphs 11 and 14 as under :-

“11. In my opinion, this Court cannot pass an order in breach of Examination Regulation since



publication of result in question, of the petitioner, in the facts and circumstances of the case, shall permit and perpetuate illegality. If the petitioner somehow or the other managed to appear in Part-III examination contrary to Examination Regulation, the Court cannot give his aid to support such illegality by issuing direction to the University to publish the petitioner's result.

“14. Grant of relief as claimed by the petitioner, in Court's opinion, shall be violative of Article 14 of the Constitution of India as in similar circumstance, similarly situated students might not have been given or might not have availed the opportunity of appearing in Part-III examination in contravention of the Examination Regulation.”

14. In view of the above discussion and the law laid down by this court in the aforesaid decisions, I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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