

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8073 of 2020

Orakh Thakur Memorial Degree Mahavidyalay Motipur (Sandha),
Muzaffarpur through its Secretary Shashank Shekhar (Male), aged about 52
years, Sion of Shyam Kishore Thakur, Shivpuri Majhauriya Road, P.S.- Kazi
Mahmadpur, District- Muzaffarpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Govt. of Bihar, New Secretariat, Patna.
2. The Principal Secretary, Human Resources Development Department, Govt.
of Bihar, New Secretariat, Patna.
3. Babasaheb Bhimrao Ambedkar Bihar University, Muzaffarpur through its
Registrar.
4. The Vice Chancellor, Babasaheb Bhimrao Ambedkar Bihar University,
Muzaffarpur.
5. The Registrar, Babasaheb Bhimrao Ambedkar Bihar University,
Muzaffarpur.
6. The Chancellor of Universities, Raj Bhawan, Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. P.K.Sahi, Senior Advocate Mr. Arun Kumar, Advocate
For the Respondent State:		Mr. Rakesh Narayan Singh, Advocate
For the Respondent University :		Mr. Nikhil Kumar Agrawal, Advocate

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date : 24-08-2021

Heard Mr. P.K. Sahi, learned Senior Counsel appearing
on behalf of the petitioner, Mr. Rakesh Narayan Singh, learned
counsel representing the respondent State of Bihar and Mr. Nikhil
Kumar Agrawal, learned counsel for the respondent University.



Today, a judgment has been delivered, in case of ***L.P. Shahi Mahavidyalay, Muzaffarpur vs. The State of Bihar and Others*** (C.W.J.C. No. 8059 of 2020), wherein this Court has set aside a letter dated 10.09.2020 issued by the Education Department, Government of Bihar, whereby a proposal, sent by the Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur (hereinafter to be referred to as 'the University') for grant of approval of affiliation to the College in that case was rejected by the State Government, being in conflict with the provisions under Section 21(2)(d) of the Bihar State Universities Act, 1976 (hereinafter to be referred to as 'the Act').

In this case also, the petitioner, namely, Orakh Thakur Memorial Degree Mahavidyalay Motipur (Sandha), Muzaffarpur, through its Secretary, has challenged a communication of the same date dated 10.09.2020, issued by the Education Department, Government of Bihar, refusing to grant approval of affiliation. The said communication dated 10.09.2020 has been challenged by seeking amendment in the writ petition through I.A. No. 1 of 2020. Considering the fact that the communication dated 18.09.2020 arises out of the same transaction relating to grant of approval of affidavit, I.A. No. 1 of 2020 is allowed.



Consequently, the petitioner is permitted to challenge the said communication dated 10.09.2020. The averments made in I.A. No. 1 of 2020 have been treated to be part of the main writ application.

On perusal of the said communication dated 10.09.2020, it transpires that the College in question possesses 4.2 acres of land. The communication notices a fact relating to an application for registration of a transfer deed for transfer of additional 85 decimal of land in the name of the Governor of Bihar for the College in question for which an application was said to be pending then for exemption from paying registration fee with the District Magistrate, since 06.1.2019, though the documents in support of the proposal for transfer was not enclosed and, therefore, in the opinion of the State Government, the College did not satisfy the requirement of land (5 acres) prescribed for grant of affiliation.

In the counter affidavit filed on behalf of the State of Bihar, it has been stated that upon examination of the documents, it has been found that the College has not acquired 66 decimal of land. It has further been stated that out of five acres and 6 decimal of land, 85 decimal is not in the name of the College, rather in the name of one Shashank Shekhar, who is admittedly ready to



transfer the land in the name of the College and a request has been made in this regard by the College to the District Magistrate to exempt from payment of registration charge. Only on the ground that the College does not have five acres of land, the State Government has refused to grant approval of affiliation.

This Court, in the judgment and order dated 24.08.2021 passed in case of ***L.P. Shahi Mahavidyalay, Muzaffarpur vs. The State of Bihar and Others*** (C.W.J.C. No. 8059 of 2020), has noted that the scope of consideration for the State Government while granting affiliation under Section 21(2)(d) of the Act, which are as under : -

- (i) the financial viability of the College;
- (ii) nature and form of the proposed management of the College;
- (iii) the viability of the Academic standard; and
- (iv) all other conditions which are likely to have adverse effect on the interest of the students admitted to such College.

The letter dated 10.09.2020 impugned in this case is set aside for the same reasons as recorded in case of ***L.P. Shahi Mahavidyalay, Muzaffarpur*** (supra). The matter is remanded back to respondent No. 2 for a final decision to be taken by the State



Government in accordance with law having due regard to the statutory provision under Section 21(2)(d) of the Act.

Respondent No. 2 shall ensure that a decision is taken on the point of grant of approval of affiliation within one month from the date of receipt/production of a copy of this order.

The Court is of the opinion that instead of being hyper-technical in the matter of availability of land with the College while considering the question of grant of approval of affiliation, the State Government ought to have taken steps to facilitate transfer of land for the College, which is apparently a genuine cause, by taking pro-active measures. The Court reiterates its observations as made in the judgment and order dated 24.08.2021, passed in case of ***L.P. Shahi Mahavidyalay, Muzaffarpur vs. The State of Bihar and Others*** (C.W.J.C. No. **8059 of 2020**), that the State Government while exercising important statutory function under Section 21(2)(d) of the Act has acted in a casual, cavalier and indifferent manner, not expected from such functionary. It has been stated at the Bar that the 85 decimals of land has since been transferred for which matter was pending. This aspect of the matter must be kept in mind by the State Government while taking decision in compliance of this Court's order.



This application is accordingly allowed with the
direction and observation as above.

(Chakradhari Sharan Singh, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.09.2021
Transmission Date	N/A

