

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20405 of 2019

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Mata Shri Kaushalya Ramdeo Dr. Ganesh Roy Degree College New Rasidpur, P.S.- Sitamarhi, Distt.- Sitamarhi, through the Secretary of the Managing Committee namely Dr. Ganesh Roy @ Ganesh Roy, aged about of 64 years (male), son of Ramdeo Roy, resident of Arvindalay, Lakshmana Nagar, Ward No. 16, Bhabdepur, Sitamarhi Bazar, P.S.- Sitamarhi, Distt.- Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna
3. The Deputy Secretary, Education Department, Govt. of Bihar, Patna
4. The Director, Higher Education, Education Department, Govt. of Bihar, Patna
5. Baba Saheb Bhim Rao Ambedkar Bihar University through its Vice Chancellor, Muzaffarpur
6. The Vice Chancellor, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur
7. The Registrar, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur
8. The Controller of Examination, Baba Saheb Bhim Rao Ambedkar Bihar University, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashhar Mustafa
Mr. Atul Kumar Jha
Ms.Zeya Ismail
Mr. Murad Ashraf

For the Respondent Nos.1 to 4: Mr. S.K.Ranjan, A.C. to G.P.17

For the Respondent Nos.5 to 8 : Mr. Brajesh Kumar

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 03-03-2021 Heard Mr. Ashhar Mustafa, learned counsel for the

petitioner, Mr. S.K. Ranjan, learned A.C. to G.P.17 and Mr.

Brajesh Kumar, learned counsel for the respondent Nos.5 to 8.



The petitioner moved this Court against the order as contained in Memo No.610 dated 27.03.2019 by which the affiliation of the petitioner-college has been rejected on the ground that the petitioner does not fulfill the requisite criteria for possessing land by virtue of sale deed or lease.

Learned counsel for the petitioner submits that Government rejected the petition of the petitioner for grant of affiliation on 27.03.2019 but there was a circular that if the college possesses 5 acres of land on lease for more than 30 years, the affiliation should be granted to the college. On the basis of the same circular, this Court in the case of Saraswati Arjun Eklvya Degree College Jamui in CWJC No.3119 of 2019 allowed the petition and directed the respondent-authorities to consider the case for affiliation of the petitioner of that writ petition. Similarly, this Court in the case of Ramvilash Singh Ramdayal Ray College Saraypur, Raghapur, Vaishali in CWJC No.13312 of 2019 allowed the petition and directed the State Govt. to take necessary decision afresh within 30 days from the date of order.

Learned counsel for the State submits that this Court vide order dated 19.07.2019 in CWJC No.3119 of 2019 passed the order on the basis of the existing circular that if the college



possesses the land for 30 years, the college fulfills the criteria for grant of affiliation but the Government revised that circular vide Letter No.76/2014-3074 dated 25.10.2019. The aforesaid circular was modified to the extent as mentioned in Clause (c) that in rural areas of Bihar, the undisputed ownership/leasehold and possession of land measuring not less than 5 acres for establishing educational institutions. Clause (d) provides that the leasehold period must be for a minimum period of 33 years with a minimum one time renewal clause, however, lease land having lease period of 60 years and above may not require a renewal clause. On the basis of such, learned counsel for the State submits that petitioner does not fulfill the criteria as the petitioner possesses the land on lease only for 51 years and the State has rightly rejected the petition of the petitioner-college.

From the order dated 15.07.2019 passed in CWJC No.13312 of 2019, it is crystal clear that at that time, there was one condition for establishment of a college in rural area that college must possess land measuring 5 acres and more for 99 years but that condition was revised that the lease of the land should be for 30 years, on such, this Court by order dated 15.07.2019 and 19.07.2019 passed in CWJC No.13312 of 2019 and CWJC No.3119 of 2019 directed the respondent-Education



Department to consider the case for grant of affiliation accordingly.

Annexure-7 of the present writ petition shows that the petition for affiliation of the petitioner was rejected on 27.03.2019 on the ground that college does not fulfill the condition with regard to the land. It is admitted fact that petitioner possess more than 5 acres of land. The lease of 5 acres of land is for more than 51 years and circular at that time was lease of the land should be for 30 years. Thus, the petitioner fulfilled the criteria of holding the land of 5 acres or more than 5 acres on lease for 51 years but the Education Department, Govt. of Bihar rejected the petition for affiliation of the petitioner on the non est ground resorting to the Letter No.76/2014-3074 dated 25.10.2019 by which the condition with regard to leasehold land has been revised and it is made that the leasehold period must be for a minimum period of 33 years with a minimum one time renewal clause, however, lease land having lease period of 60 years and above may not require a renewal clause. Therefore, the order as contained in Memo No.610 dated 27.03.2019(Annexure-7) is not sustainable. The same is set aside.

Accordingly, the writ petition is allowed with a



direction to the respondents-authorities to consider the case of
the petitioner for grant of affiliation within 30 days from the
date of receipt of this order.

(Prabhat Kumar Jha, J)

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