

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1733 of 2018

In

Civil Writ Jurisdiction Case No.17936 of 2017

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Abhishek Kumar, son of Sri Shatrughan Pathak, the Principal, Adarsh Champaran Degree Mahavidyalay, Kotwa, East Champaran, resident of Chhota Bariyarpur, near Hawaii Adda Dakshin, P.S.- Motihari, District- East Champaran, Motihari.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department.
2. The B.R.A. Bihar University, Muzaffarpur through its Registrar.
3. The Vice-Chancellor, B.R.A. Bihar University, Muzaffarpur.
4. The Examination Controller, B.R.A. Bihar University, Muzaffarpur.
5. The Inspector of College, Science, B.R.A. Bihar University, Muzaffarpur.
6. The University Grants Commission, through its Chairman, New Delhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Nivedita Nirvikar, Sr. Advocate
For the State : Mr. Shashi Shekhar Tiwari, Advocate
For the Respondent/University : Mr. Indrajesh Kumar, Advocate
For the Respondent/UGC : Mr. Amarendra Nath Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 08-03-2022

Heard Ms. Nivedita Nirvikar, the learned



senior Advocate for the petitioner, Mr. Shashi Shekhar Tiwari for the State, Mr. Indrajesh Kumar for the B.R.A. Bihar University, Muzaffarpur and Mr. Amarendra Nath Verma, the learned counsel for the University Grants Commission.

2. The appellant had filed a writ petition seeking a direction to the respondent/B.R.A. Bihar University, Muzaffarpur (*in short the University*) to grant affiliation to the College in question for Bachelor degree in Arts, Science and Commerce for the Session 2016-19 onwards. The appellant had contended that the College in question had fulfilled all the requirements for affiliation as prescribed under the Bihar State Universities Act, Statutes and Regulations framed thereunder.

3. It was suggested to the writ Court that in the expectation of the concerned respondent taking a decision about granting affiliation to the College, the students be permitted to appear in the examination of the University, so that their career is not jeopardized. It was also brought to the notice of the learned single Judge that



in one of the cases, viz., *Mahavir Upadhyay Memorial Degree College, Dhaka, East Champaran Vs. The State of Bihar & Ors. (C.W.J.C. No. 10023 of 2012)*, it was held by this Court that the affiliation cannot be withheld by the University if the College has fulfilled all required criteria for being affiliated.

4. Be that as it may, the learned single Judge allowed the aforesaid writ petition and directed the University to expedite the consideration of the decision regarding affiliation and take a decision at the earliest. It was also clarified that a decision was required to be taken without any delay if the appellant satisfied the University that the defects, which has been pointed out, have been rectified. A timeline also was provided to the concerned University for taking a final decision in the matter.

5. We do not find any reason for the appellant to challenge the aforesaid order except that the learned single Judge did not agree to the contention of the appellant that the students who had enrolled themselves in the expectation of the College to be



granted affiliation, be permitted to appear in the examination.

6. It was otherwise also, not permissible to order as such.

7. The College in question could not have taken admission of the students without appropriate order of affiliation by the University.

8. It appears that against the inaction of the respondent/University in complying with the order passed by the learned single Judge, a contempt petition also has been filed in which notices have been issued to the respondent/University and others for showing cause. The aforesaid contempt petition has also reportedly been disposed off on 11th of December, 2021.

9. However, Ms. Nivedita Nirvikar, the learned senior Advocate has informed this Court that now the University has granted affiliation to the College in question, but only for the Session 2021-24 and that also for lesser number of subjects than what was applied for.

10. This Court, after hearing the parties, is of



the view that in case the appellant is aggrieved by such decision of the respondent/University, the same could be put to challenge by him, but that cannot be a reason for raising any grievance against the order passed by the learned single Judge.

11. There is no merit in this appeal and the same is, accordingly, dismissed.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

Praveen-II/-

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