

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10410 of 2018

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Jag Jivan Abhyuday Sanskrit Mahavidalaya, son of Shri Yadu Nandan Sharma
resident of Village - Gopalpur, P.O. - Abhuday Ashram, P.S. - Amarpur,
District - Banka.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Director, Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 12495 of 2018

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Mithila Sanskrit Mahavidyalaya Sasaula Sabha Son of Late Nitya Nanda
Mishra

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Higher Education, Department of Education, Government of Bihar, Patna.
3. The Additional Secretary, Department of Education, Government of Bihar, Patna.
4. The Director, Higher Education, Department of Education, Govt. of Bihar, Patna.
5. Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga through its Registrar.
6. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
7. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kamneshwar Nagar, Darbhanga.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 10410 of 2018)

For the Petitioner/s	:	Mr. Abhinav Srivastava, Adv.
For the State	:	Smt. Binita Singh-Sc28
For the K.S.D.S. University	:	Mr. Gyanand Roy, Adv.



(In Civil Writ Jurisdiction Case No. 12495 of 2018)

For the Petitioner/s : Mr. Durga Nand Jha, Adv.
For the State : Mr. Madhukar Mishra, AC to SC 16
For the K.S.D.S. University : Mr. Gyanand Roy, Adv.

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

6 15-11-2022 1. The petitioner aggrieved of the action of the State Government in denying permanent affiliation to it has approached this court assailing the order dated 26.12.2017 and the order dated 11.07.2019.

2. Learned counsel for the petitioner submits that only on account of paucity of teachers the petitioner college could not have been denied permanent affiliation more so as the University has already made recommendation for granting permanent affiliation to it after conducting a thorough investigation and inspection by a Committee of three members on 01.11.2017.

3. Learned counsel submits that the petitioner college was not allowed to fill up the posts which fell vacant on account of retirement etc. As per the directions issued by the State Government itself which specifically prohibited the Affiliated Colleges as well as Constituent Colleges to make appointments of teachers. In light of such prohibitory orders, the post remained vacant. However, the same could not be used as an excuse to deny permanent affiliation to the college which has



been running since long.

4. Learned counsel has placed before this court an order passed by the Education Department dated 13.09.2017 whereby a different yardstick was adopted in relation to another college and was granted affiliation. Although it too at that relevant time had only four teachers.

5. Learned counsel thus submits that there is discrimination and different yardsticks have been adopted by the State Government for granting affiliation or rejecting the same.

6. Learned counsel has also referred to the earlier litigation relating to the affiliation of the Sanskrit Colleges in Bihar and submits that the norms and establishment of the Sanskrit Colleges are to be governed by the Government order dated 18.10.1976 which continues to hold the field and the institutions which are existing are required to be examined in terms of the said circular of 18.10.1976 and the subsequent statute dated 19.04.1986. In consonance with the said circular any revised norms which may be applicable to the other colleges will have no application to the Sanskrit Colleges.

7. Learned counsel has referred to the order passed in the LPA No. 1959/2018 dated 29.09.2016 for the said purpose. Per contra, learned counsel appearing for the State submits that



for efficient education in the Sanskrit Colleges, the minimum which is required is sufficiency of the teaching staff. A college is required to provide educational staff for the purpose of teaching and if there is a shortage of the teaching faculty, the State has a right not to grant permanent affiliation to such college as once the permanent affiliation is granted, the college may not fill up the post even thereafter. It is also further submitted in the counter-affidavit by the State that as per the **Section 57(a)** and **57(b)** of the **Bihar State Universities Act**, the management of the affiliated colleges is competent to make the appointment of the teachers based on the recommendations of the Selection Committee constituted for the purpose. A merit list is to be prepared for the purpose of selection of such teachers and the teachers who are appointed must possess minimum eligibility qualifications as laid down from time to time by the U.G.C.

8. Learned counsel submits that the said requirement is applicable to all colleges which also includes Sanskrit Colleges. On examination of inspection report, it was noticed that as many as six posts were lying vacant out of the total ten posts of teachers including the Principal and therefore, the affiliation was denied to the college. However, if the college fills up the vacant posts, strictly in accordance with the relevant



provisions, the State would have no objection in granting permanent affiliation.

9. I have considered the submissions. Sufficient staff in a college is a sine quo non for smooth and efficient running of the college. If the staff is not available for any reason thereof, the State has authority to deny affiliation to such college. However, as has come out in the facts of the present case, the college was prohibited from filling up the post on account of the orders passed by the State Government itself, resulting in shortage of staff. Before rejecting the case for final affiliation of the petitioner's college, the college should have therefore been given an opportunity to fill up the posts. The action of rejection of affiliation is therefore wrongful.

10. Keeping in view the stand now taken by the State Government that the management is entitled to fill up the post, it is observed that if the petitioner college is able to have at least 80 per cent of the staff, the State Government shall after getting inspection done by the University, and finding all other requirements up to the mark, proceed to pass orders of affiliation expeditiously. The college is granted three months time for the said purpose. The inspection of course would be conducted by the University in terms of the provisions of the



Act.

11. With the said observations the writ petition stands partly allowed as above. It is made clear that the orders passed earlier rejecting the permanent affiliation case of the petitioners are set aside.

(Sanjeev Prakash Sharma, J)

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Item No. 160

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