

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.659 of 2021

In
Civil Writ Jurisdiction Case No.8884 of 2020

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Rakesh Kumar Singh Son of Sri Kameshwar Singh Resident of Village-
Srinagar, P.S.- Khairah, District- Saran at Chapra, Bihar.

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Vikas Bhawan, New Secretariat, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Vikas Bhavan, New Secretariat, Patna.
3. The Director, Higher Education, Education Department, Government of Bihar, Vikas Bhavan, New Secretariat, Patna.
4. The Aryabhatta Knowledge University, Patna through the Vice Chancellor.
5. The Vice Chancellor, Aryabhatta Knowledge University, Patna.
6. The Registrar, Aryabhatta Knowledge University, Patna.
7. Principal, Netaji Subash Institute of Technology, Amhara, Bihta, District- Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Kumar Kaushik, Adv.
For the State	:	Mr. Prabhat Ranjan Singh, AC to AAG15
For the University	:	Mr. Ajay Bihari Sinha, Sr. Adv.
		Mr. Priyank Deepak, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE NAWNEET KUMAR

PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 06-12-2022

Heard Mr. Kumar Kaushik, learned advocate for

the appellant and Mr. Ajay Bihari Sinha, learned Senior

Advocate assisted by Mr. Priyank Deepak, advocate, for

the Aryabhatta University.



The short issue before this Court is that the appellant, an Assistant Professor in Netaji Subhash Institute of Technology, Amhara, Bihta, Patna, an affiliated unit of Aryabhatta Knowledge University, Patna, has challenged the refusal of the Registrar of the University to countersign his experience certificate which, according to him, is his right and which right is not being vindicated for inexplicable reasons. The further challenge of the appellant is that the learned Single Judge has solely relied upon the statement of the University that there is no existing record of the Institute with the University for acceding to the request of the appellant for countersigning his experience certificate.

Many grounds have been raised in this appeal, but what has immediately struck the Court is the statement of the University that the record of an affiliated unit is not available with the University.

Mr. Ajay Bihari Sinha, learned senior advocate for the University, after seeking instructions, had stated before



this Court on the last occasion that the Institute in question has not been responding to the interrogatories with respect to its infrastructure, academic environment and other details, for it to remain an affiliated unit of the University and for any teaching faculty of the Institute to obtain experience certificate from the University.

During the course of argument, the learned counsel for the appellant drew the attention of this Court to a general instruction issued by the University administration, not to countersign the experience certificate of affiliated Institutes for want of the records of such Institutes cataloged with the University.

On being confronted with this information, Mr. Sinha responded that such instructions are for the specific instances and not general. In case the details of the Institutes are provided, the University shall take a decision with respect to countersigning the experience certificate of the teaching faculty of such affiliated Institutes.



With some consternation, we have noticed that the Institute in question, which has been impleaded as respondent no. 7, has not responded to the notice issued by this Court till date. We would have ensured the presence of the Institute otherwise but we leave it to the discretion of the University for probing further; whether such Institute really exists in physical form or only on paper. In that case, if it is found that the respondent no. 5 is a non-existent Institute which has not even responded to the notice issued by this Court in appeal, the University would be perfectly within the rights to initiate de-affiliation proceeding against such Institutes.

For the present, we have entertained this appeal for two reasons, as noted above viz. (i) that it is not in the mouth of the University to say that it does not have the records of the affiliated unit and; (ii) such statement of the University was accepted by the learned Single Judge without any demur and the writ petition was dismissed.



When Mr. Sinha has made a statement before this Court that on receipt of necessary information from the Institute regarding its existence and other details, there would be no restraint on the Registrar to countersign such experience certificate of a faculty member desiring the same, we do not wish to take the issue any further.

Should the Institute in question not respond to the queries of the University, necessary action may be taken against such Institute not so much for the indiscipline but, more for finding out whether such Institute exists in physical form.

The learned counsel for the appellant at this stage presses I.A. No. 04/2022, seeking a direction to the Bihar State University Service Commission to consider awarding ten marks to the appellant against the teaching experience in the appointment process initiated against Advertisement dated 21.09.2020 for appointment of Assistant Professors in various Universities of the State of Bihar.



We deem it appropriate to dispose off the aforesaid Interlocutory Application with the observation that in case a suitable representation is made by the appellant before the Commission, the authorities of the Commission shall look into it, especially the fact that the issue with respect to the counter-signature of the experience certificate was pending adjudication before this Court and shall take a call whether 10 marks is awardable to the appellant.

It would also be open for the appellant to raise the aforenoted grievance before any other appropriate forum, if so desired.

So far as the present appeal is concerned, we dispose it off with a direction that should necessary information be forthcoming from the Institute where the appellant is working, the Registrar of the University shall be asked to countersign the experience certificate and, if possible, also communicate with the Commission the



reasons for delayed counter-signature of the experience certificate.

It would be the duty of the University to ensure that for no fault of the appellant, he should not be put to any disadvantage.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

(Nawneet Kumar Pandey, J)

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AFR/NAFR	NAFR
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