

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8065 of 2023

=====

Bintesh Kumar Rai, Son of Sanjay Rai, Resident of Mohalla- House of
Rajapur Navrang Rai, P.O.- Rajapur, P.S.- Simri, District- Buxar.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Vice-Chancellor, Veer Kunwar Singh University, Ara, Bihar.
4. The Registrar, Veer Kunwar Singh University, Ara, Bihar.
5. The Examination Controller, Veer Kunwar Singh University, Ara, Bihar.
6. The Principal, D.K. Memorial College, Dumari (Buxar).

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Aditya Nath Pandey, Advocate
For the State	:	Mr. Nitesh Suman, AC to SC- 13
For the University	:	Mr. Siddhartha Prasad, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date : 13-07-2023

Heard learned counsel for the petitioner, learned counsel for the Veer Kunwar Singh University (hereinafter referred to as the ‘University’) and learned counsel for the State.

2. This writ application has been filed for the following reliefs:-

“i. For issuance of appropriate Writ/Writs, direction/directions or orders/order especially in the nature of **Mandamus** for directing the respondent University to issue Original Certificate of B.Sc. (Physics Hons.) Degree, who has completed his Three-Year Degree Course from Veer Kunwar University, Ara in Academic Session 2015-18, having Registration Number-51020015 and Roll No.- 508020010018.



ii. For issuance of direction upon the University for grant of Compensation of Rs.5 Lakhs to the Petitioner for the delay in issuing original certificate causing serious harassment to the petitioner and difficulty in securing job for want of original certificate.

iii. For any other relief/reliefs, which the Hon'ble Court may grant in general interest, that may be deemed appropriate and necessary in this case."

Case of the Petitioner

3. It is the case of the petitioner that after successfully completing his Intermediate class, he took admission in D.K.M. College, Dumri, Buxar to pursue his three-year degree course in Science (Physics Hons.) in the academic session 2015-18. The said college is affiliated to Veer Kunwar Singh University, Ara (Bihar). The petitioner was allotted Registration No.- 51020015, Roll Code-508 and Roll No.- 151120224 by the University. A copy of the Registration Card has been enclosed as Annexure '3' to the writ application.

4. It is the further case of the petitioner that he cleared Part-I and Part-II Examination in the year 2016 and 2017 respectively whereafter he took admission in Part-III and attended all the classes conducted by the college. He appeared in the Final Examination of B.Sc. (Hons.) which was held in the month of October, 2018 and cleared the same in 1st class and accordingly, a provisional certificate was issued to the petitioner by the University. A true/photocopy of marksheet of B.Sc. Part-III, Examination-2018 and provisional certificate have been enclosed as Annexures '6' and '7' respectively to the writ application. It is submitted that having successfully completed



his Bachelors Degree in Physics Honours, the petitioner prepared for the competitive examinations and he has been provisionally shortlisted by the Railway Recruitment Board, Bilaspur. He was called for interview with all the original documents, however, because the petitioner failed to submit his original degree certificate, the Railway Recruitment Board, Bilaspur issued another letter asking the petitioner to submit the original certificate. It is the case of the petitioner that the petitioner has applied for the original certificate of B.Sc. Hons. vide Annexure '8' to the writ application but the University has not issued the same. It is submitted that the delay in issuance of the original certificate of degree is causing huge difficulty in getting job and despite having been shortlisted, he is afraid that he may not be selected.

5. Learned counsel for the petitioner has placed before this Court a copy of the order dated 28.06.2019 passed in CWJC No. 9336 of 2019 and an another order dated 05.05.2023 passed in CWJC No. 18035 of 2022 by a learned Co-ordinate Bench of this Court. It is submitted that as back as on 28.06.2019, the learned Co-ordinate Bench had taken a view that since the students were allowed to appear at various examinations by the examining University within the knowledge of the State authority, considering the hardships and noticing the previous practice, to salvage the situation, this Court being a Constitutional Court directed the respondent authorities to adopt remedial measures having regard to the prospect of large number of students and the fact that in the past the affiliation was granted as one



time measure for publication of the result and thereafter the institutions were not allowed to admit students or allow those students to appear in the examination.

6. This Court has recently in its order dated 05.05.2023, in identical situation directed the University to issue original graduation certificates in favour of the petitioners within a period of one month from the date of receipt/production of a copy of the order of this Court. This Court expressed its hope and trust that within the aforesaid period, the State Government will come out with a final decision regarding one time affiliation to the colleges in question.

7. This writ application was taken up for consideration on 28.06.2023 and adjourned for two weeks to enable the respondents to file counter affidavit. Learned counsel for the University was to take instruction as to why the original certificate of the petitioner has not been issued.

Stand of the University

8. A counter affidavit has been filed on behalf of the University, however, no response has come from the State of Bihar. The University and its authorities (respondent nos. 3 to 5) have informed this Court that the University has requested the State Government vide Letter No. 380/Estab/2022 dated 13.11.2022 to affiliate these colleges or the subject for one time in the interest of large number of students so that the original certificate of these students may be issued. A copy of the letter dated 13.11.2022 has been brought on record as Annexure 'A'



with the counter affidavit. The stand of the University is that as soon as the State Government gives the instructions for issuing the original certificate of these students, the University will issue the original certificates to such examinees immediately.

9. No reason at all has been communicated to this Court as to why despite directions of this Court in the aforementioned writ applications, the State Government has not taken a decision.

Consideration

10. Having heard learned counsel for the parties and upon perusal of the records, this Court finds from the pleadings as well as the Annexures in support thereof that Veer Kunwar Singh University, Ara (Bihar) has allowed the petitioner to appear in the examination held for the three-year degree course. The University has also published his result and has issued marksheet. The petitioner has been declared passed in 1st class. The petitioner has been further issued a provisional certificate bearing certificate no.-18000221000001 certifying his role code, roll number and registration number. Further, the Controller of Examination of the University who has signed the provisional certificate has declared the petitioner passed in Bachelor of Science Examination in Physics (Hons.) of the year 2018 held in the month of October, 2018 and that the petitioner was placed in 1st class. Thus, for the entire three years the petitioner was allowed to continue with his studies, to appear in the examination and his result was also published.



11. On the face of the aforementioned materials available on the record, this Court is of the considered opinion that in the name of pendency of the request/recommendation of the University with the State Government to grant affiliation to the college or the course for the given period, the petitioner cannot be deprived of his original marksheet and the certificates. Silence on the part of the State Government or inaction on its part despite the directions of this Court by way of judicial pronouncements are to be taken seriously. This Court cannot, in the present circumstance, keep on issuing directions to the State Government to consider the issue of affiliation in this case as one time measure. Enough opportunity has been granted to the State and this Court expressed its hope and trust in the Department.

12. Despite all such directions and expectations of the Court, in the facts of this case, if the State Government is not acting and the career/future of the students such as the petitioner is likely to be ruined in absence of the original certificates, this Court cannot remain a mute spectator.

13. This Court being a Constitutional Court is of the opinion that once the University has issued the provisional degree certificate and marksheet to the petitioner, by no means the University can be allowed to sit over the matter and withhold the issuance of original marksheet and degree certificate to the petitioner in the name of permission from the State Government.



14. An order of restraint, if any, against the University in the matter of issuance of original marksheet and degree certificate would not operate in the facts and circumstances of the present case.

15. In the facts of the present case as noticed above, this Court directs respondent nos. 4 and 5 to issue original marksheet and degree certificate etc. to the petitioner within a period of one month from the date of receipt/communication of a copy of this order.

16. This writ application is allowed.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.07.2023
Transmission Date	

