

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2001 of 2023

In
Civil Writ Jurisdiction Case No.4528 of 2023

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Shubham Kumar S/o-Sarveshwar Kumar R/o Village-Mauna, P.O.-Taraon,
P.S.-Nasriganj, District-Rohtas. Pin 821310

... .. Petitioner/s

Versus

1. The National Institute of Technology Patna through its Director.
2. The Director, National Institute of Technology, Patna.
3. The Registrar, National Institute of Technology, Patna.
4. Dean (Academic) National Institute of Technology, Patna.
5. Dean, Student Welfare, National Institute of Technology, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shubham Kumar (In Person)

For the Opposite Party/

N.I.T. : Mr.Sanjay Kumar Giri, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 6 06-10-2023 1. Heard Mr. Shubham Kumar in person and
- Mr. Sanjay Kumar Giri appearing for the National Institute of
- Technology, Patna.
2. The petitioner has filed the present application for
- modification of the order dated 08.05.2023, passed by this
- Court in C.W.J.C. no. 4528 of 2023, which was filed by the
- petitioner for quashing the impugned order dated 24.11.2022,
- by which the petitioner was expelled for one academic session
- i.e. 2022-23 from all academic activities and from Hostel



accommodation for his entire B-Tech course. After hearing the parties and on the basis of specific undertaking given by the petitioner on 07.05.2023, this Court disposed the writ application with consent of the parties by its order dated 08.05.2023, quashing the impugned order dated 24.11.2022, with a direction that the petitioner shall abide by his undertaking and can participate in academic activities from 5th Semester, to be commenced from July, 2023, and shall also be allowed to stay in the Hostel. It is an admitted position that the petitioner did not take admission in the 5th Semester, to be started from July, 2023 and in fact, filed the present application for modification of the order dated 08.05.2023 with the following prayers :-

“(a) For allowing the application of the petitioner for modification of order dated 08.05.2023, passed by this Hon’ble Court in C.W.J.C. no. 4528 of 2023 and modify the order dated 08.05.2023 up to the extent of setting aside/ quashing the impugned order dated 24.11.2022, passed by the respondent, debarring the petitioner applicant from the respondent Institute for one year academic session i.e. December 2022 to July 2023.

(b) For directing the respondent Institute to



declare the result of examination of mid term examination of Vth Semester of the B.Tech. of the petitioner-applicant for which the petitioner had already appeared in the examination held in October/November 2022. (c) For directing the respondent Institute to permit the petitioner-applicant to pursue course of VIth Semester as back log alongwith other students in the respondent Institute.

(d) For directing the respondent Institute to open the portal to the petitioner- applicant to apply for admission in VIIth Semester of B.Tech. starting from 17th July to 27th July 2023.”

3. The petitioner (in person) submits that the Advocate appearing for the petitioner in the writ petition did not place his case properly, inasmuch as the petitioner was asked by his Advocate to sign the papers for filing rejoinder to the counter affidavit, filed by the respondents but those papers were used by the Advocate for furnishing undertaking before this Hon’ble Court without any consent and knowledge of the petitioner. He further submits that the petitioner was not shown the said undertaking by his Advocate before submitting the same in this Court. He next submits that the impugned



order dated 24.11.2022 did not contemplate for not declaring the result of the petitioner for his examination already held for mid- 5th Semester, the case was not argued on merit and the petitioner was not allowed to show his bonafides. Thus, it is submitted that the petitioner be permitted to pursue 6th Semester as backlog along with other students who are approx. 160 in number, hence the petitioner deserves to be considered afresh and he may not be punished for the act, which he did not commit, accordingly, the modification application may be considered in the interest of justice.

4. The learned counsel for the National Institute of Technology submits that the petitioner, by way of modification, is trying to re-argue the case afresh and has come with a new prayer, which cannot be allowed by way of modification. He further submits that the petitioner submitted the undertaking that he would not break rule or guidelines of the statute or misbehave with the Warden in future and also submitted an unconditional apology to the respondents. In view of unconditional apology of the petitioner and with consent of parties, this Court quashed the impugned order debarring the petitioner from academic activities for the academic year 2022-23 and allowed the petitioner to start his



academic activities from 5th Semester to be started from July, 2023. It is next submitted that pursuant to the order passed by this Court, the petitioner did not get himself register in the 5th Semester, to be started from July, 2023 and has come out with a new prayer in the M.J.C. application for allowing him to pursue the course of 6th Semester as backlog along with other students and also a direction to the N.I.T. to open the portal for registration of the petitioner in 7th Semester of B.Tech. starting from July 17th to July 27th 2023.

5. Referring to the Regulation, which has been brought on record by way of a counter affidavit, filed on behalf of National Institute of Technology, Patna, which is annexed as Annexure-OP-3/E), learned counsel submits that as per Clause-9.5 to the Curricula/ Regulation of National Institute of Technology, Patna for the B-Tech. 2020-24, all students admitted in B.Tech. will be promoted to next succeeding year irrespective of C.G.P.A., subject to the condition that student appears in minimum 70% (round off) of total number of registered papers in the current session. Learned counsel also submits that the 5th Semester for the academic year 2022-23 consists of two Semesters of 06 months each and the petitioner has only completed 45% of the



5th Semester, as such, as per Clause 9.5 of the said Regulation, he cannot be allowed to pursue his course in 6th Semester and further registration in the 7th Semester, hence it is submitted that the prayer made in the modification application may not be allowed in view of Curricula/ Regulation prevailing in the B.Tech. Course being pursued by the petitioner. Learned counsel lastly submits that the portal for registration in 5th Semester starting from July, 2023 is still open but the petitioner has submitted his objection that unless he is allowed to be registered in 7th Semester, he would not register in the 5th Semester.

6. I have heard the petitioner in person as well as the learned counsel appearing for the National Institute of Technology, Patna. It is well-settled that by way of modification/ Review, one is not permitted to re-argue the entire case. In the present application, the petitioner has come out with a new prayer and has sought the modification of the order dated 08.05.2023 on the ground that the Advocate appearing for the petitioner did not place his case properly.

7. This Court does not find any error apparent on record. The order under modification/ Review is a consent order based on written undertaking given by the petitioner.



Accordingly, I do not find any merit in the present
modification application, hence the same stands dismissed.

(Anil Kumar Sinha, J)

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