

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16950 of 2019

1. Bhaskar Pandey Son of Kamakhaya Narayan Pandey resident of Village and P.S.- Narayanpur, District- Bhojpur.
2. Sindhu Kumari Wife of Vijay Kumar Suman resident of Village- Basantpur Ghaus, P.S.- Sakara, District- Muzaffarpur.
3. Pramod Kumar son of Prem Sagar Sharma resident of Village- Daudpur, P.S. Goh, District- Muzaffarpur.
4. Amit Kumar Mishra @ Amit Mishra Son of Mani Shankar resident of Village- Amehata, P.O. and P.S.- Amehata, District- Gajipur (U.P.).
5. Vinay Kumar Son of Rajendra Singh resident of Village- Balbhadrapur, P.S. Kurhani, District- Muzaffarpur.
6. Subodh Kumar Son of Sri Dinesh Singh resident of Village- Harinarayanpur, P.S.- Kudhani, District- Muzaffarpur.
7. Jitendra Kumar son of Sri Ram Prasad Singh resident of Village- Turki, P.S. Barkurba, District- Muzaffarpur.
8. Chitranjan Kumar son of Rajendra Prasad resident of Village- Thatiya, P.S. Kurhani, District- Muzaffarpur.
9. Gunjan Kumar Son of Damodar Ojha resident near at Bansi Apartment, Khabra @ Kirtarpur Gurdas, P.S.- Muzaffarpur, District- Muzaffarpur.
10. Seema Kumari Wife of Mukesh Kumar resident at S.N. Mehta College, Malighat near Sanskrit College Chandwara, P.S.- Muzaffarpur, District- Muzaffarpur.
11. Sudesh Kumar son of Ramnek Shahi resident of Village- Gorigama Dih, P.S.- Kurhani, District- Muzaffarpur.
12. Amresh Kumar Son of Shiv Shankar Thakur resident of Village- Majhauli Pachdahi, P.S. Sakara, District- Muzaffarpur.
13. Amit Kumar Son of Upendra Thakur resident of Village- Majhauli Panchdahi, via Silout, P.S.- Sakara, District- Muzaffarpur.
14. Amir Kumar Son of Narayan Pandit resident of Village- Ramdas Majhauli, P.S. Bochahan, District- Muzaffarpur.
15. Raghvendra Ojha son of Suresh Ojha resident at near Bansi Sweet, Ward No. 05, Khabra @ Kirtarpur Gurdas, P.S. and District- Muzaffarpur.
16. Dhananjay Kumar Son of Martand Prasad Singh resident of Village- Khabra (Dih), P.S.- Musahri, District- Muzaffarpur.
17. Priyanka Kumari Wife of Gajendra Kumar Singh resident of Village- Arcail Dih, P.S.- Baligaon, District- Vaishali, Hajipur.
18. Khusbu Kumari Wife of Sri Sujeet Kumar Ojha resident of Village- Khabara Khabas @ Kirtarpur Gurdas, P.S.- Muzaffarpur, District- Muzaffarpur.
19. Riddhi Kumari Wife of Avinash Kumar resident at Boriya, Jashoda Mathh @ Rampur, P.S.- Harihar, District- Muzaffarpur.

... .. Petitioners

Versus



1. Babasaheb Bhim Rao Ambedkar Bihar University through its Vice Chancellor, having its office at Muzaffarpur.
2. The Examination Controller, Babasaheb Bhim Rao Ambedkar, Bihar University, having its office at Muzaffarpur.
3. The Registrar, Babasaheb Bhim Rao Ambedkar, Bihar University, having its office at Muzaffarpur.
4. J.M. Institute of Speech and Hearing, through its Director, having its Head Office at Road No. 05, Indrapuri, Patna- 800024.
5. The Director, J.M. Institute of Speech and Hearing, having its office at Road No. 5, Indrapuri, Patna- 800024.
6. The President, J.M. Institute of Speech and Hearing, Chhajan, Manariya, Turki, Muzaffarpur.
7. The Secretary, J.M. Institute of Speech and Hearing, Chhajan, Manariya, Turki, Muzaffarpur.
8. Honble Chancellor of Babasaheb Bhim Rao Ambedkar Bihar University, Office of Governor House, Bihar, Patna.
9. National Council of Teachers Education (NCTE) through its Regional Director, Eastern Regional Office, Bhubneshwar.
10. The State of Bihar through Director of Higher Education, Bihar, Patna.
11. The Bihar State Higher Education Council, Bihar, Patna

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 5178 of 2021

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J.M. Institute of Speech and Hearing Manria Chajjan, Turki, P.S. Turki, District Muzaffarpur, through its President, Dr. Mrs. Manisha Kumari, age about 55 years, Female, wife of Dr. Manoj Kumar, resident of Road No. 5, Indrapuri, P.S. Patliputra, District Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Bihar, Patna.
2. Chancellor of Universities, Raj Bhawan, Patna.
3. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
4. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
5. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
6. The Officer on Special Duty (Judl.), Governor s Secretariat, Bihar, Raj Bhawan, Patna.
7. The Rehabilitation Council of India through its Secretary
8. The Bihar State Higher Education Council, Bihar, Patna

... .. Respondents

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with

Civil Writ Jurisdiction Case No. 8763 of 2021

1. Abhishek Chandra Chaudhary alias Abhishek Kumar Son of Sanjeev Chaudhary, Resident of near Gayatri Mandir, Bank Colony, Nazirpur, P.O. - Sheikhpura, P.S. - Ahiyapur, District - Muzaffarpur, Bihar - 842002.
2. Rajeev Ranjan, Son of Alok Ranjan Sah, Resident of Vill and P.O.- Manjamma, P.S. Paroo, District - Muzaffarpur, Bihar - 843107.
3. Munna Kumar, Son of Ashok Ram, Resident of Vill.- Laxmipur, P.O. - Turki, P.S.- Kurhani, District - Muzaffarpur - 844127.
4. Ritu Priya, Daughter of Pramod Kumar Mishra, Resident of Vill. - Majhaulia Mai Asthan, near Gumti No. 5, P.O. Dumri, P.S. Sadar Thana, District - Muzaffarpur.
5. Vindhyaasini Prajapati, Daughter of Satyendar Prajapati, Resident of Vill.- Baidauli, P.O. - Farsar, P.S. - Bharhalganj, District - Gorakhpur, U.P.- 273402.
6. Akash Kumar, Son of Chandrabali Sahni, Resident of Vill. - Chor Koriya, P.O. - Chhajan Harisankar, P.S.- Kudhani, District - Muzaffarpur - 844127.
7. Durgesh Nandani, Daughter of Shiv Kumar Das, Resident of Vill.- Turki, P.O. - Turki, P.S.- Kudhani, District - Muzaffarpur - 844127.
8. Raj Kumar, Son of Bachulal Sahni, Resident of Vill.- Raksa South, P.O. - Raksadih, P.S. Karra, District - Muzaffarpur - 843109.
9. Vipul Kumar, Son of Devikant Jha, Resident at Post - Chandrahatti, P.S.- Kudhani, District - Muzaffarpur - 844120.
10. Ratnesh Kumar, Son of Ram Loaran Baitha, Resident of Vill. - Datapur, P.O. - Basantpur Patti, P.S.- Sarraiya, District - Muzaffarpur, Bihar - 843101.
11. Himanshu Kumar, Son of Kailash Prasad Singh, Resident of Vill.- Bhirkhurd, P.O. - Vdhodih, P.S.- Sultanganj, District - Bhagalpur, Bihar, Pin- 813213.
12. Anu Kumari, D/o Jawahar Nand, Resident at - Vishunpur, P.O. - Dhanbad (Pirapur), P.S.- Dhanbad, District - Dhanbad - 828130.
13. Manisha Kumari alias Manisha Kunwar Daughter of Mandra Kunwar, Resident at - Maitrinagar, P.O. - Kritipur, P.S. - Metropolitan Circle Prahri Kendra, Kathmandu, Nepal.
14. Anand Prajapati, Son of Tribhuwan Nath, Resident of Vill.- Kanadaha, P.O. and P.S.- Meja Allahabad, U.P.- 212302.
15. Aprajita, Daughter of Rajeev Kumar, Resident of Vill. - Rachamba, P.O. - Suhird Nagar, P.S. and District - Begusarai - 351213.
16. Dinesh Kumar Yadav, Son of Shiv Shankar Yadav, Resident of Vill.- Birchi Uttar Pradesh, P.S. - Birohi, Pin- 231303.
17. Syed Sharukh Firoz, Son of Firozuddin Faiz, Resident of Vill.- Bari Karbala Road, Muzaffarpur, P.S. Sadar Thana, District - Muzaffarpur - 842001.
18. Deepak Kumar, Son of Indradeo Singh, Resident of Vill.- Lodiya, P.O.- Lakhisarai, P.S. Lakhisarai, Pin - 811311.



19. Avinash Choudhary, Son of Rajeswar Choudhary, Resident of Vill.- Pahalwan Nagar, Sonpur, P.O. and P.S.- Sonpur, District - Saran, Pin - 841101.
20. Rajnish Kumar, Son of Anil Singh, Resident of Village- Thulima, P.O. Turki, P.S.- Kudhani, District - Muzaffarpur - 844127.
21. Md. Wasim, Son of Md. Sakur, Resident of Vill.- Enayat Nagar, P.O. and P.S.- Goroul, District - Vaishali, Pin - 844118.
22. Rani Sanyukta, Daughter of Manoj Jha, Resident of Vill.- Dumri Fardopur, P.O.- Khabra, P.S.- Sadar Thana, District - Muzaffarpur, Pin- 842001.
23. Naman Kumar, Son of Ramagya Singh, Resident of Vill.- Barauni -3, P.O.- Barauni Deadhi, P.S. - Teghra, District - Begusarai, Bihar - 851113.
24. Vipul Modgul, Son of Late Vinay Kumar Mishra, Resident of Vill.- Barauni - 1, P.O - Barauni Deodhi, P.S.- Teghra, District - Begusarai - 851113.
25. Anish Kashyap, Son of N.N. Pandey, Resident at L-2, Kulsi Road Sokali, Jamshedpur, Jharkhand - 8311001.
26. Sudha Nandan Ankit, Son of Naval Kishor Gupta, Resident of Vill. - Jaso Kutir, behind Krisna Fuels, P.S.- Sikandarpur, P.O.- Sikandarpur, District - Muzaffarpur - 842001.
27. Abhishek Kumar, Son of Nagendra Singh, Resident of Vill. and P.O.- Mora, P.S.- Bhagwanpur (West), District - Siwan - 841507.
28. Ravi Kumar, Son of Umesh Kumar Mahesh, Resident of Vill.- Hariwanshpur, P.O. and P.S. - Bhagwanpur, Vaishali, District - Vaishali - 844114.
29. Md. Ali Shekh, Son of Md. Rahmid, Resident of Vill.- Rampur Moni, Kulesradih, P.O.- Kulesradih, P.S. - Sakra, District - Muzaffarpur - 843119.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Education Welfare Department, Bihar, Patna.
2. Chancellor of Universities, Raj Bhawan, Patna.
3. B.R. Ambedkar Bihar University, Muzaffarpur through its Registrar.
4. Vice Chancellor, B.R. Ambedkar Bihar University, Muzaffarpur.
5. Registrar, B.R. Ambedkar Bihar University, Muzaffarpur.
6. J.M. Institute of Speech and Hearing through its President Dr. Mrs. Manisha Kumari, Chhajan, Turki, District - Muzaffarpur.
7. Officer on Special Duty (Judicial) Governors Secretariat, Bihar, Raj Bhawan, Patna - 800022.
8. The Bihar State Higher Education Council, Bihar, Patna

... .. Respondents

with

Civil Writ Jurisdiction Case No. 1387 of 2022



Rinku Kumari Daughter of Vishwanath Sahni, Wife of Amarnath Choudhary
Resident of Bhairpatti, Post Office- Dharmagatpur Bathua, Police Station-
Pusa, District- Samastipur.

... .. Petitioner

Versus

1. Babasaheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur through its Registrar.
2. The Vice- Chancellor, Babasaheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur.
3. The Finance Officer, Babasaheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur.
4. The Examination Controller, Babasaheb Bhim Rao Ambedkar, Bihar University, Muzaffarpur.
5. The President, J.M. Institute of Speech and Hearing, Chhajan Manariya, Turki, Muzaffarpur.
6. The Secretary, J.M. Institute of Speech and Hearing, Chhajan Manariya, Turki, Muzaffarpur.
7. The Director, J.M. Institute of Speech and Hearing, Road No. 5, Indrapuri, Patna.
8. The State of Bihar through the Principal Secretary, Human Resources Department, Government of Bihar, Patna.
9. The Director, Higher Education Department, Government of Bihar, Patna.
10. The Bihar State Higher Education Council, Bihar, Patna

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 16950 of 2019)

For the Petitioner/s : Mr.Aditya Narayan Singh.1, Advocate
For the University : Mr.Zakir Haider, Advocate
For the Chancellor : Mr. Rana Vikram Singh, Advocate

(In Civil Writ Jurisdiction Case No. 5178 of 2021)

For the Petitioner/s : Mr.Nilanjana Chatterjee, Advocate
For the Respondent/s : Mr. Rana Vikram Singh, Advocate

(In Civil Writ Jurisdiction Case No. 8763 of 2021)

For the Petitioner/s : Mr.Gouranga Chatterjee, Advocate
For the State : Ms. Namrata Singh (AC to GA-12)
For the University : Mr.Nikhil Kumar Agrawal, Advocate
Mr.Yash Sahay, Advocate

(In Civil Writ Jurisdiction Case No. 1387 of 2022)

For the Petitioner/s : Mr.Ranjan Kumar, Advocate
For the State : Mr.Sanjay Kumar, AC to GP-23
For the University : Mr.Viveka Nand Singh, Advocate
For the Chancellor : Mr. Rana Vikram Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT**

Date : 26-07-2023



Learned counsel for the petitioners having gone through the stand taken by the Governor Secretariat, Raj Bhavan, Patna (Respondent No. 6) in its counter affidavit seeks permission to add the Bihar State Higher Education Council, Bihar, Patna as party Respondent No. 11 in CWJC No. 16950 of 2019, Respondent No. 8 in CWJC No. 5178 of 2021, Respondent No. 8 in CWJC No. 8763 of 2021 and Respondent No. 10 in CWJC No. 1387 of 2022.

2. Permission is granted.

3. Let the Bihar State Higher Education Council (hereinafter referred to as the 'Council') be added as party Respondent in course of the day.

CWJC No. 16950 of 2019

4. CWJC No. 16950 of 2019 has been preferred by some of the students of the Institute namely J. M. Institute of Speech and Hearing, Turki, Muzaffarpur (hereinafter referred to as the 'Institute'). It is their grievance that the Respondent Nos. 1 to 3 having conducted their examination for B.Ed Special 2012-13 through the Institute has withheld the original certificates on the ground that for the session 2012-13 for teaching of B.Ed Special, there was no approval by the Hon'ble Chancellor, Bihar, Patna. It is stated that the petitioners were admitted in the academic session 2012-13, they were allowed to fill up the examination form



through their Institute and admit cards were issued by the University for appearing in B.Ed Special Examination which was scheduled on 12.08.2014. It is submitted that provisional certificates were issued to the petitioners in the month of March, 2015. They got registration before the Rehabilitation Council of India (in short 'R.C.I.') and also got registration certificate. On the basis of their B.Ed Special Provisional certificate, the petitioner nos. 1 and 2 qualified in Central Teacher Eligibility Test (CTET) conducted in the year 2015. The petitioner no. 2 claims that she worked as Special Educator (Mental Retardation) in the Institute from 01.04.2015 to 17.07.2017 and during that period, her work was good and a certificate was issued by the President of the said Institute. Petitioner No. 2 also started working as a Guest Faculty since 18.07.2017 in Composite Regional Center for Persons with Disabilities, Sheikhpura, Patna, a unit of Government of India. Some of the petitioners are said to be working in private sector.

CWJC No. 5178 of 2021

5. CWJC No. 5178 of 2021 has been filed seeking a writ in the nature of Writ of Mandamus commanding the respondent authorities under the B. R. Ambedkar Bihar University, Muzaffarpur (hereinafter referred to as the 'University') to take



steps towards conducting the examination of the students who are pursuing the different courses, including Bachelor in Audiology and Speech Language Pathology, Bachelor in Occupational Therapy and Bachelor in Physiotherapy at the Institute. Further prayer is to take steps towards issuing marksheets and certificates in favour of the students of the Institute in accordance with law.

CWJC No. 8763 of 2022

6. In this writ application, the petitioners are seeking a writ in the nature of Writ of Mandamus commanding the concerned respondent authorities to conduct the examination of the petitioners who are students in different years of different courses in the Institute.

7. It is stated that these petitioners are waiting for their examination since the year 2016, but the respondent authorities are not conducting the examination for the reasons best known to them. In this writ application, it is further submitted that Respondent No. 6- College had approached this Court in CWJC Nos. 5825 of 2017, 6100 of 2017 and 6379 of 2017 in which a stand was taken by the respondent- University that the ordinance/ proposal for approval of the courses which the petitioners are pursuing has already been approved by the senate of the University and the same is pending for assent of the Hon'ble Chancellor of



the University. It is submitted that this Court was pleased to direct the Hon'ble Chancellor of the University to take a decision with respect to the same but till date, no decision has been taken. Annexure '2' to the writ application is the copy of the order of this Court passed as back as on 13.07.2017. It appears that this Court disposed of the writ application with an observation that approval of the ordinances/ regulations should be expedited in the interest of the career of the students.

8. Learned counsel for the petitioners submits that the students have filed their representation on 04.02.2020 (Annexure '3' to the writ application) but it has not been considered. The courses are said to have been approved by the R.C.I. which is the apex body regulating these courses.

CWJC No. 1387 of 2022

9. In this writ application, the sole petitioner is praying for a direction to the respondent authorities to make payment of compensation as per direction given by this Court in CWJC No. 16950 of 2019.

10. It is submitted that the petitioner has deposited a total amount of Rs. 1,33,710/- for pursuing her B.Ed Special Course in Session 2013-14. She claims that her case is similar to the case of the writ petitioner in CWJC No. 16950 of 2019,



wherein this Court directed the University to approach the Hon'ble Chancellor for appropriate decision in the matter of grant of post facto approval of courses and it was expected that the office of the Chancellor will consider the case of the petitioners sympathetically in view of the fact that they are physically challenged. This Court requested the Hon'ble Chancellor to take appropriate decision being the highest authority of the University at the earliest so that the petitioners may not suffer adversely.

11. This Court further observed that “ in the event, office of the Chancellor refuses to approve the course, the University is required to compensate the petitioner by making payment of compensation which will not be less than 10 times of the amount deposited by the petitioner in the University for pursuing such course.”

12. On the request of learned counsel for the parties, this Court has taken CWJC No. 5178 of 2021 as the lead case.

13. For purpose of the resolution of disputes in these writ applications, the stand taken by the Officer on Special Duty (Judicial), Governor's Secretariat, Raj Bhavan, Patna (Respondent No. 6) would be worth mentioning. On going through the statements made therein, it appears that a proposal for approval of admission Ordinance and Examination Regulation of B.Ed SE-



(Hearing Impairment) and B.Ed SE- (Mental Retardation) courses were sent by the University on 02.07.2015 which was rejected by the Hon'ble Chancellor after due consideration and it was communicated to the University by the Governor Secretariat vide letter dated 27.09.2017.

14. It is stated that again on 28.10.2016, the documents and relevant papers were sent by the University in reference to the above courses and the previous letter dated 30.07.2015. The University communicated that the said courses have already been started from the academic session of 2012-13. The University was asked to submit a fresh ordinances and Regulations whereupon the University sent a fresh draft ordinance and regulations on 17.07.2017 which was placed before the Advisory Committee on 16.09.2017. The proposals were, however, remitted once again to the University with some query vide letter dated 21.09.2017 by the Governor's Secretariat. Thereafter, reminders were sent thrice to the University on 16.01.2018, 07.05.2018 and 27.03.2019. The fresh proposal sent by the University was placed before the Advisory Committee on 25.07.2019. In its meeting held on 29.08.2019, the Advisory Committee recommended for approval of the course from Session 2018 onwards provided the R.C.I. permits beyond the session 2019-20.



15. It is further stated that after this recommendation of the Advisory Committee, a detail report was asked from the University and concerned Institute vide letter dated 11.09.2019. It was sent by the University on 25.12.2019 with all relevant documents and draft ordinance and regulations. In this report, the University has accepted that in the light of grant of recognition by the R.C.I. and subsequent grant of affiliation by the University, the students were admitted in the session from 2012-13. It is stated that in the meantime, a letter dated 04.02.2020 along with the enclosures were received from all pass-out candidates for issuance of original certificates with reference to the order of the Hon'ble Court in CWJC No. 16950 of 2019. The Advisory Committee in its meeting held on 12.03.2020 considered the proposal of the University for recognition of B.Ed (Spl. Ed.) course and for issuance of the original certificates in the light of the order of the Hon'ble Court passed in CWJC No. 16950 of 2019. The Advisory Committee also considered the representation of the signatories which were 193 in number and belong to the petitioner's Institute. After detailed discussion, the Advisory Committee for the reasons assigned therein did not recommend for post facto approval of the regulation and ordinance rather it recommended for a punitive fine of Rs. 50,00,000/- upon the University and the concerned Institute



for violating the norms and keeping the Governor's Secretariat in dark.

16. At this stage, Mr. Rana Vikram Singh, learned counsel representing the Governor Secretariat (Respondent No. 6) has informed this Court that in fact the recommendation of the Advisory Committee has not been accepted and the same remained pending with the Hon'ble Chancellor. This fact is though not stated in counter affidavit of Respondent No. 6 but he has said it on instruction.

17. Learned counsel submits that while the matter was still pending with the Hon'ble Chancellor, the State Government constituted Bihar State Higher Education Council in accordance with the provisions of the Bihar State Higher Education Council Act, 2018 (hereinafter referred to as the 'Act of 2018').

18. Learned counsel submits that from Section 3 of the Act of 2018 it would appear that the Council is a body corporate having perpetual succession and a common seal and can sue or can be sued in its own name. It is further pointed out that powers and functions of the Council is stated under Section 11 of the Act of 2018 and Clause (V) of sub Section 2 of Section 11 of the Act of 2018 would show that one of the functions of the Council is to "examine the statute, ordinances and regulations of Universities in



the State and suggest modification to maintain uniformity in the administration without prejudice to the autonomy for the academic pursuits;”

19. Learned counsel submits that in view of the powers conferred upon the Council under Section 11, now it is the Council which has to consider the proposed ordinance and regulations for its approval and making its recommendation to the Hon’ble Chancellor for approval. It is submitted that as soon as the recommendations/ approval of the Council is received in the office of the Governor Secretariat, the same will be considered and appropriate order shall be passed thereon taking note of the interest of the students.

20. Mr. Nilanjan Chatterjee, learned counsel for the petitioner in the lead case has relied upon the judgment of the learned Co-ordinate Bench of this Court in CWJC No. 21551 of 2018 (**Md. Ataur Rahman and Others vs. Babasaheb Bhimrao Ambedkar Bihar University and Others**) reported in **2021 BLJ (1) 751**. Learned counsel submits that in the said case also an issue as to approval of the draft ordinance and regulation of B.Ed course under distance education mode of B.R.A. Bihar University, Muzaffarpur had arisen for consideration. The only fact which differs with the facts of the present cases is that in the said case the



draft ordinance and regulations of B.Ed courses had been rejected by the Hon'ble Chancellor on the advise of the Advisory Committee and the same was communicated to the University vide Governor's Secretariat letter no. BU(Regulation) -67/2014/-2132 GS(I), dated 20.09.2016. While considering the writ application, the learned Co-ordinate Bench examined the relevant provisions including that of the National Council for Teacher Education Act, 1993. The Court considered as to whether despite approval granted by the N.C.T.E. as well as the recognition granted by the U.G.C. for running B.Ed Course (O.D.L. Mode) course for the session under consideration and the examining body being the respondent University which has in fact started the said course, can the Chancellor still be an impediment to the conduct of the said B.Ed Course (O.D.L. Mode) course by the respondent University by not granting assent to the draft ordinance and regulation pertaining to the B.Ed course under the O.D.L. mode.

21. It is submitted that the learned Co-ordinate Bench has after consideration of the relevant provisions and the judgments on the subject held that the law made with regard to the technical institutions by the Parliament would prevail and the State Government would not have parallel powers especially in view of the enactment of the N.C.T.E. Act, 1993 by the Parliament. The



learned Co-ordinate Bench relied upon the Judgment of the Hon'ble Supreme Court in the case of **State of Maharashtra vs. Sant Dnyaneshwar Shikshan Shastra Mahavidyala & ors.** reported in **(2006) 9 SCC 1** and **Maa Vaishno Devi Mahila Mahavidyala vs. The State of Uttar Pradesh & ors.** reported in **(2013) 2 SCC 617**, the Hon'ble Division Bench judgment of this Court in case of **Mata Gujri Memorial Medical College & L.S.K. Hospital vs. The State of Bihar & ors.** reported in **1995 (1) PLJR 237**, and in CWJC No. 5855 of 1993 (**Nawadah Vidhi Maha Vidhalaya, Nawadah & Ors. Vs. The State of Bihar & Ors.**). Having examined the law on the subject, the learned Co-ordinate Bench directed the University to hold final examination for the B.Ed (O.D.L.mode) course for the session 2015-17 forthwith and thereafter, issue necessary certificates/ degrees to the successful candidates, in accordance with law and also to those students who have already successfully passed the B.Ed first year examination.

Consideration

22. Having heard learned counsel for the petitioners, learned counsel for the University, the State and learned counsel for the Governor Secretariat (respondent no. 6), this Court is of the considered opinion that by virtue of coming into force of the Act



of 2018 now the power to examine the Statutes, Ordinances and Regulations of the Universities has been vested with the Council constituted under the provisions of the Act of 2018 by the State Government. In this case, the Hon'ble Chancellor has yet not rejected the proposal of the University to approve the Ordinances and Regulations. The stand of respondent no. 6 is that as soon as the approval/recommendation of the Council is received, the same will be immediately considered by the Hon'ble Chancellor and an appropriate decision shall be taken keeping in view the interest of the students.

23. In its counter affidavit, in Paragraph '9', Respondent No. 6 has categorically stated that the proposal of the University is also among them and its recommendation/suggestion is still awaited.

24. In the totality of the facts and circumstances of the case, this Court finds that it is definitely a very hard case for the students of the Institute in question. The courses which they have completed from this Institute have been approved by the RCI which is the regulatory body for these courses. The courses have also been approved by the University and it is only after the permission granted by the University the students were admitted in the Institute. In fact in CWJC No. 16950 of 2019, the students



have already passed out the courses and they have been issued the provisional certificates by the University, based on which they have passed the Teachers Eligibility Test and have got employed also in different establishments. In the other writ applications, the petitioners are the students of the same courses in different years and they are waiting for examination of 1st year, 2nd year and 3rd year. They are facing situation of uncertainties. This Court finds that on the earlier occasion, the learned Co-ordinate Benches of this Court have given observations expressing their expectations that the matter will be considered expeditiously but those observations have not drawn the attention of the concerned authorities.

25. At this stage, taking note of the stand of respondent no. 6 and on finding that the issue of post facto approval of the Ordinances and Regulations are pending consideration before the Council, this Court directs the Council to convene a meeting within a period of six weeks from today to consider the Ordinances and Regulations of the University in the present case and take an appropriate decision thereon which will be communicated to the University within eight weeks from today.

26. As regard the students in CWJC No. 16950 of 2019, finding that they have already been issued provisional marksheets



and certificates by the University based on which they have passed eligibility tests and are already employed in different establishments, this Court is of the considered opinion that at this stage, they cannot be for any reason deprived of getting their original certificates from the University. The learned Co-ordinate Bench judgment takes a view that in the cases where the courses have been conducted after approval of the regulatory body constituted under the provisions of the act of Parliament and then such courses have been approved by the University, the requirements laid down by the State Government or under statute of the State Government cannot stand by way of an impediment, therefore, in the facts of the case of the petitioners in CWJC No. 16950 of 2019, now their degree is bound to be validated and since the University has already issued the provisional certificates to the petitioners of this writ application, their original certificates cannot be withheld.

27. This Court, therefore, directs the University and its authorities to make available the original certificates of the petitioners and other similarly situated who have been allowed to get admitted in the institution in the Session 2012-13 in these courses which were approved by the regulatory body and the University and then have successfully passed out with their



provisional certificates in hand. The University shall issue original certificates to these petitioners and other similarly situated within a period of one month from the date of receipt/production of a copy of this order.

28. These writ applications stand disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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CAV DATE	
Uploading Date	27.07.2023
Transmission Date	

