

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12853 of 2019

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Tasneem Zeya, daughter of Md. Zeyauallah, resident of Zeya House, Khelafat Bagh, Dumra Road, P.S.- Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Higher Education, Education Department, Government of Bihar, Patna.
3. The Chairman, Bihar Public Service Commission, 15 Jawaharlal Marg, Bailey Road, Patna.
4. The Vice-Chancellor, Bhim Rao Ambedkar Bihar University, Muzaffarpur.
5. The Registrar, Bhim Rao Ambedkar Bihar University, Muzaffarpur.
6. The Controller of Examinations, Bhim Rao Ambedkar Bihar University, Muzaffarpur.
7. The Chairman, University Grants Commission, Bahadur Sah Zafar Marg, New Delhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vikash Kumar Jha, Adv Mr. Ashhar Mustafa, Adv
For the State	:	Mr. Jitendra Kumar Roy 1 (Sc13) Mr. U.K. Singh, AC to SC 13
For the B.P.S.C	:	Mr. Kaushal Kumar Jha, Sr. Adv Mr. Anish Kumar, Adv
For the U.G.C	:	Mr. Hare Bhaskar Geetesh, Adv Mr. P.C. Agrawal, Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 05-09-2024

Heard learned counsels for the parties.

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

(i) For setting aside the communication contained in memo no.910 – 200 dated 18.02.2019, by which the respondent University has informed the petitioner that she has not been issued Ph.D. certificate under 2009



Regulation on account of submission of her pre-submission and course work certificates much after the submission of thesis, which consideration is typically perverse as her course work was completed way back in November 2013 and thus, she cannot be allowed to suffer for the delay of the University in issuing certificates.

(ii) For directing the respondent University to forthwith issue needful certificate in the desired/ prescribed format regarding completion of Ph.D. by the petitioner under 2009 Regulation.

(iii) For directing the respondent University to take departmental action against its erring officers, who are mainly responsible for harassing the petitioner and delaying issuance of certificate to her under 2009 Regulation on patently perverse and absurd considerations.

(iv) For grant of any other relief in the interest of justice, equity and good conscience.

2. Learned counsel for the petitioner submits that petitioner appeared in the Research Eligibility Test Examination, 2010 held on 04.07.2010. Having secured over 45% marks in both the papers and 50% marks in aggregate, she successfully qualified in the said examination. (Annexure-1 of the writ application).

3. The synopsis of the petitioner on the topic “*Amalgamation of Disparate Experiences in the Short Fiction of Alice Munro*” was approved vide letter no.C/6097 dated 17.07.2012 issued by the Controller of Examinations of the University and her name was provisionally registered for Ph.D. with effect from 17.01.2011 subject to the conditions laid down by the Research Council from time to time. Dr. Sanjeev Kumar



Mishra, Department of English, L.S. College, Muzaffarpur was nominated as her guide for pursuing research. (Annexure-2 of the writ application).

4. He further submits that on 03.11.2014, certificate of course work was issued under the joint signatures of the University Head, Department of English and Dean, Faculty of Humanities, B.R. Ambedkar Bihar University, Muzaffarpur. It was certified therein that the petitioner had satisfactorily completed the Ph.D. course work of one semester (July-December, 2013) required for Ph.D. degree as per the guidelines under UGC Regulation, 2009. It was further certified that the petitioner was awarded 'A' grade on the basis of evaluation of her progress and power point presentation on the Ph.D. course work by the Research Committee. She was also allowed to proceed further for her research work leading to award of Ph.D. degree by the University. (Annexure-3 of the writ application).

5. He further submits that upon submission of thesis on 09.04.2014 in accordance with the guidelines assented to by the Chancellor of Universities of Bihar for the implementation of the research programme and as per norms and regulations laid down under UGC Regulation of 2009, a certificate of course work and a pre-submission certificate, bearing reference no.



ENG/Ph.D/ P.S. - 08 dated 03.11.2014, was also issued under the joint signatures of Head of the Department, Department of English and Dean, Faculty of Humanities, B.R. Ambedkar Bihar University, Muzaffarpur for award of Ph.D. degree to the petitioner on successful completion of the evaluation process of the submitted thesis. (Annexure-4 of the writ application).

6. He further submits that after appearing in viva-voce held on 18.11.2014 vide memo no.C/7969 dated 27.11.2014 issued under the signature of Controller of Examinations, as per the order of Vice-Chancellor, petitioner was declared to have passed the Ph.D examination. Thereafter, Ph.D degree was awarded to the petitioner under the signature of the Vice-Chancellor on 14.07.2015. (Annexure-5 of the writ application).

7. In the meantime, vide advertisement no.45 of 2014, applications were invited for appointment of Assistant Professor in the different Universities of Bihar. Since the petitioner was declared passed on 27.11.2014 itself, petitioner also applied for the said position for which necessary payment was done on 10.12.2014. The acknowledgment whereof was sent by the Commission on 16.06.2015. (Annexure-6 of the writ application).

8. He further submits that although the interview



programme for appointment of Assistant Professor in English was duly published wherein the name of the petitioner figured at Serial No.900, she was directed to submit needful certificate regarding completion of Ph.D. under 2009 regulation in the office of the BPSC, Patna on or before 30.11.2015 failing which she would be rendered ineligible. In view thereof, petitioner represented before the Examination Controller of the University on 19.11.2015 for issuance of a needful certificate. (Annexure-7 of the writ application).

9. Pursuant to the aforesaid, a certificate, bearing reference no.C/3865 dated 20.11.2015, was issued by the Registrar of the University, by which it was affirmed that the petitioner has earned her Ph.D. degree as per the mandate of 2009 Regulation and, as such, she is expempted from passing the NET/SLET Examination. (Annexure-8 of the writ application).

10. That since the aforesaid certificate was not treated properly by the Commission, she was not allowed to appear in the interview. As a result of which the petitioner again represented before the Registrar on 16.05.2016, which application was duly forwarded by the Departmental Head with a prayer for issuance of necessary certificate under 2009 Regulation in the prescribed performa. A similar representation



was again addressed to the Registrar on 27.06.2016, however, the same was never issued. (Annexure-9 series of the writ application).

11. He further submits that the University vide memo no.C/1359 dated 06.10.2018, finally responded to the RTI application and asked the petitioner to furnish all the relevant and necessary documents but the same was only done when the petitioner had to file second appeal before State Information Commission. (Annexure-10 of the writ application). While indicating the indifferent conduct of the authorities, petitioner, vide letter dated 15.10.2018, submitted all the documents afresh and again requested for issuance of needful certificate under 2009 Regulation. (Annexure-11 of the writ application).

12. He further submits that since the pre-submission certificate was issued on 03.11.2014 to the petitioner, the same could not be enclosed with the thesis which was submitted on 09.04.2014 itself, the petitioner vide letter no.C/2117 dated 30.11.2018 was asked to show cause as to how pre-submission certificate was issued to him after submission of thesis. (Annexure-12 of the writ application). Accordingly, petitioner submitted her detailed show cause on 05.12.2018. She also filed her representation to this effect before the State Information



Commission. (Annexure-13 of the writ application).

13. The University, vide memo no.910-200 dated 18.02.2019 issued by its Assistant Public Information Officer, ultimately rejected the show cause and conveyed its decision to the petitioner that certificate under 2009 Regulation could not be issued to her for the reasons indicated above in the show cause notice dated 30.11.2018. (Annexure-14 of the writ application).

14. It is pertinent to mention here that the Ph.D. course work was completed by the petitioner in between July to December 2013, for which the certificate was belatedly issued by the University on 03.11.2014. If the University issued the relevant certificate after a delay of around 11 months, the petitioner cannot be allowed to suffer especially when she has submitted thesis after several months of completion of course work. The absurdity of the plea now being raised by the University for the first time is further evident from the fact that the University, in past, had already certified that the petitioner had completed her Ph.D. under 2009 Regulation.

15. The sudden sharp shift in the stand of the University that too on a typically perverse consideration of delay, which in no way is attributable to the petitioner, is not tenable. To the contrary, petitioner ought to be suitably compensated for her



suffering and even harassment meted to her on account of a thoroughly casual and irresponsible conduct of the University.

16. A counter affidavit is filed on behalf of the respondent nos.1 and 2. It is submitted that a candidate must have Ph.D degree as per Minimum Standard and Procedure Regulation, 2009 framed by the University Grants Commission for M.Phil/Ph.D. degree. This issued has been settled by the Supreme Court in the case of ***P. Suseela vs. University Grants Commission (2015) 8 Supreme Court Cases 129.***

17. He further submitted that it is the University who has refused to issue certificate stating that the petitioner has passed the Ph.D as per the 2009 Regulation.

18. The Respondent nos.4 to 6 has also filed a counter affidavit. It is stated by the learned counsel appearing on behalf of the respondent nos.4 to 6 that petitioner was registered in the Ph.D course vide letter no. C/6097 dated 17.07.2012, issued by the Controller of Examinations, B.R.A. Bihar University, Muzaffarpur. In order to comply with the requirements of Ph.D. degree under 2009 Regulations, it is essential that the concerned candidate must have been registered for Ph.D. degree on or after 06.11.2012. It further required that he/she must have successfully completed the course work of 1st semester and has



carried out research work for at least 2 years after completion of the course work. (Annexure-R/1 of the counter affidavit filed on behalf of respondent nos.4 to 6).

19. He further submitted that the University vide letter contained in Memo No.B/760 dated 20.05.2013 had intimated to all the Head of Departments (HOD) of the University regarding the new Regulation and Ordinance for the Ph.D degree as promulgated by the Chancellor of the University which will be effective from the Academic Session 2012-13. Subsequently, students are required to complete their coursework as provided in para 05 of the said Regulation. (Annexure R/2 of the counter affidavit filed on behalf of respondent nos.4 to 6).

20. In the present case, petitioner submitted her Ph.D. thesis on 09.04.2014 and has completed her course work and pre-submission on 03.11.2014 i.e. after submission of her Ph.D. thesis. Therefore, petitioner is not entitled for any relief as prayed by her in contravention of the Regulations.

21. A supplementary counter affidavit is also filed on behalf of the respondent nos.4 to 6. It is submitted that petitioner in support of her contention has been relying upon the course work certificate dated 03.11.2014 issued to her by the Department of English, B.R.A. Bihar University, Muzaffarpur. The copy of the



relevant pages of the dispatch register of the Department of English has been placed on record. From the contents of the register, the entry regarding the name of the petitioner is appearing in the record. However, the signature of the HOD corresponding to the entry is missing which gives an inference that the said certificate might have been issued belatedly which makes the same questionable. Further, the pre-submission certificate issued to the petitioner is also way after the submission of her thesis which itself does not appear to be in accordance with 2009 Regulations. (Annexure-R/3 of the supplementary counter affidavit filed on behalf of the respondent nos.4 to 6).

22. The respondent no.7 has also filed a counter affidavit stating therein that the petitioner was issued a certificate by the Registrar of the University by which it was affirmed that the petitioner has earned her Ph.D. degree as per the mandate of UGC 2009 and as such, she is exempted from passing the NET/SLET Examination. The said certificate was not treated properly by the Commission where she had applied for her appointment and was not allowed appearing in the interview. Petitioner was asked to furnish the document and accordingly, she submitted the document and asked issuance of needful.



23. It is further stated that petitioner submitted her thesis on 09.04.2014 but did not enclose pre-submission certificate. However, the petitioner submitted the pre-submission certificate dated 03.11.2014 after submission of thesis. A show cause was also issued to the petitioner stating that submission of pre-submission certificate after submission of thesis is against the 2009 Regulation made in this behalf.

24. It is further stated that provisions contained in UGC Regulations, 2009 has been strictly adhered by the University.

25. Heard the arguments advanced on behalf of the parties, it is an admitted fact that the Registrar of the University has issued the certificate dated 20.11.2015 bearing reference no.C/3865 that the petitioner has completed the Ph.D degree under the Regulation 2009 dated 11.07.2009 and subsequent modification by Minutes No.472 on 27.09.2010. It is also an admitted fact that the pre-submission certificate of the petitioner issued on 03.11.2014 could not be enclosed with the thesis which was submitted on 09.04.2014 and the same is in fault on the part of the authorities concerned.

26. Considering that the pre-submission certificate of the petitioner was not issued by the authorities concerned before the submission of thesis, as such, the petitioner is at no fault and



accordingly, this writ application is allowed with a direction to the authorities concerned to issue the Ph.D. degree of the petitioner as per 2009 Regulations.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
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