

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14021 of 2019

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Chandi Dutta Upshastri Mahavidyalaya Pastan, P.O. Pastan, P.S. Andhratharhi, District- Madhubani through its Principal Rajendra Kumar Jha, Son of Sri Bhogendra Jha.

... .. Petitioner/s

Versus

1. Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, District- Darbhanga through its Registrar.
2. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga, District- Darbhanga.
3. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga, District- Darbhanga.
4. The State of Bihar through Principal Secretary(Higher Education), Department of Education, Government of Bihar, Patna.
5. The Additional Secretary, Department of Education, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Durga Nand Jha, Adv.
For the State	:	Mr. Madhukar Mishra, AC to SC16
For the University	:	Mr. Deepak Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 11-07-2024

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the University.

2. I.A. No. 01 of 2024 has been filed for adding additional prayer in the main writ application for quashing the Memo No. 4081 dated 04.11.2023 issued under the signature of Additional Secretary to the Government as contained in Annexure-R/3 to the counter affidavit whereunder the proposal of the university sent to Government for grant of approval of permanent recognition has been rejected.

3. The present writ petition has been filed seeking the



following reliefs:

“(i) Issuance of a writ in the nature of Certiorari for quashing the letter no. 3680/2019 dated 8.4.2019 issued under the signature of Controller of Examination of Respondent university being Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga (here-in-after to be referred to University) whereby and where under the petitioner has been directed to submit the examination forms of the students through either affiliated college or constituent college until permanent affiliation is not granted to petitioner college as also not to Admit any student from the Sessions 2019 against the own decision of the senate of the university and thus order is without jurisdiction.

(ii) Issuance of a writ in the nature of Certiorari for quashing the letter no. 14/AF-06/2012-308 dated 8.3.18 as sent by the O.S.D. (Judicial) vide letter no. 927 dated 27.3.2018, issued under the signature of Additional Secretary (Respondent-5) and communicated to petitioner College by the Registrar of K.S.D.S. University vide letter no. 824 dated 26.5.18, whereby and where under the Government decision has been communicated to the effect that affiliation matter would be decided within one month from the date of receipt of proposal under statute letter no. 1098 dated 19.4.1986 under section 21(2) (d) of B.S. Universities Act absolutely contrary to decision of this Hon'ble Court dated 29.9.2016 passed in LPA No. 1959 of 2015.

(iii) Issuance of further writ in the nature of Certiorari for quashing the letter no. 1179 dated 25.4.2018 as communicated to petitioner college by the Registrar of the K.S.D.S. university vide letter no. 932/18 dated 19.6.18 whereby and whereunder the petitioner college has been directed to submit the proposal in formate for affiliation as per time schedule for approval of affiliation in pursuant to statute dated 19.4.1986 which is not applicable to petitioner college.

(iv) Issuance of further writ in the nature of Certiorari for quashing the letter no. 15.M,1-25/2014-445 dated 4.3.2014 as communicated to petitioner college by the Registrar of the university vide letter no. 4362/2014 dated 31.5.2014 whereby and whereunder the approval of petitioner college has been rejected on the ground of non- Considerable under statute as issued under letter no. 1098 dated 19.4.1986, under section 21(d) of the Bihar State Universities Act.

(v) Issuance of a consequential writ in the nature of Mandamus directing and commanding the Respondents 4 to 5 to accord approval of permanent affiliation to petitioner



college on the basis of recommendation of the university under the provisions of 1976 Rules in the light of judgment of this Hon'ble Court dated 29.9.2016 passed in L.P.A. No. 1959 of 2015 as the petitioner college fulfils all the required conditions for affiliation under 1976 Rules, having been established much prior to the year 1986 and statute 1986 is not applicable to petitioner college.

The university has accorded affiliation on the basis of fresh Inspection held on 13.11.17 in the meeting of syndicate held on 14.12.17 and senate held on 24.12.17 and matter was sent to Government by the university vide letter no. 411 dated 27.2.2018.

(vi) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to.

4. The short fact of the present case is that the present writ application is being filed in representative capacity at the instance of the working staff of the college for the benefit of the college and its staffs.

5. The petitioner's college was established as far back as in the year 1978, and the college was duly inspected by the competent authorities of the university and said report was placed before affiliation committee and the committee recommended the petitioner's college to syndicate for grant of affiliation and, accordingly, the syndicate sent the matter to senate and, thereafter, matter was recommended for affiliation and sent to Government for grant of approval in pursuant to which the Government granted approval for the Sessions 1980-81 and 1981-82 and again on recommendation of university, the Government extended affiliation vide letter no. 5864 dated 22.09.1986 and vide letter no. 54 dated 16.01.1987 the State Government accorded further approval for two sessions under



1976 Rules (Annexure-5 to this writ application).

6. The University extended the affiliation of petitioner's college from sessions 2007-08 to 2010-2011 vide resolution no. 09 dated 23.01.2010 and recommended the matter to senate (Annexure-6 to this writ application). Thereafter, the University sent the report to grant approval under 1976 Rules (Annexure-9 to this writ application). The State Government rejected the request/proposal of university vide letter no. 15/M.1-22/2014-445 dated 04.03.2014 in the garb of 1986 statute letter no. 1098 dated 19.4.1986 (Annexure-4 to the writ application).

7. Learned counsel for the petitioner submits that no examination was held and by order/direction of this Hon'ble Court examination of the year 2007, 2008, 2009 were held simultaneously but the students of the petitioner's college and others were not allowed to appear. Thereafter, the petitioner along with 15 other colleges moved this Hon'ble Court in C.W.J.C. No. 17366 of 2009. The Hon'ble Court passed interim order on 17.05.2010 to allow the students of the petitioner's college and other ten college to appear at examination but not to publish their result unless approved is granted by State. Pursuant to the order dated 17.05.2010 passed in C.W.J.C. No. 17366 of 2009, some of the colleges accorded permanent affiliation under 1976 Rules, but the approval regarding permanent affiliation of



petitioner's college was kept pending (Annexure-10 to this writ application).

8. Learned counsel for the petitioner further submits that, in the meantime, this Hon'ble court decided the similar matter vide Judgment dated 29.09.2016, passed in LPA No. 1959 of 2015 in following terms:-

"The statute dated 19th April 1986 would be applicable to those institutions which come into existence after the issuance of the said circular. Such statute will not have retrospective effect to the institutions which were in existence prior thereto. The revised norms will not be applicable to existing institutions, such as the appellants."

9. Learned counsel for the petitioner further submits that the writ application of petitioner and others was disposed of on 10.05.2017 and liberty was granted to approach the authorities for grant of affiliation. Accordingly the Registrar of the university vide Memo no. 1796 dated 09.11.2017 constituted two men committee to enquire the petitioner's college a fresh and submit report within a week. The committee recommended for permanent affiliation under 1976 Rules. The matter of petitioner's college was placed before affiliation committee in its meeting dated 11.12.2017 and a recommendation was made for permanent affiliation vide others Resolution no.01 dated 11.12.2017 (Annexure-14 to the writ application). The syndicate and the senate have recommended for permanent affiliation and the University sent the matter to



the Government, but the Government has not passed any order. Representations were also filed by the petitioner's college (Annexures-19 and 20 to this application).

10. Learned counsel for the petitioner further submits that during the pendency of the writ application, the Director of Higher Education vide letter no. 3867 dated 17.10.2023 (Annexure-R/1) directed the petitioner's college to appear before the Secretary, Education Department on 20.10.2023 with hard and soft copy of PPT along with photographs of college building. Pursuant to the said letter (Annexure-R/1), the petitioner principal appeared in the meeting held at Secretariat on 20.10.2023 along with hard and soft copy of "Power Point Presentation" in which the photographs of the college building was also produced along with the entire documents, correspondences, inspection reports and other relevant documents. The respondent State was satisfied that the petitioner's college fulfills the entire criteria for grant of approval of permanent recognition. Memo No. 4081 dated 04.11.2023, issued under the signature of the Additional Secretary to Government as contained in Annexure-R/1 to the counter affidavit whereunder the proposal of the University sent to the Government for grant of approval of permanent recognition has been rejected.

11. Learned counsel for the petitioner has also filed a



reply to the counter affidavit filed on behalf of the State in which the photographs of the college building is enclosed and it is also stated that the condition of 7 rooms required for Upshastri college is being fulfilled by the college in question who has 8 rooms and thus letter of the Government dated 04.11.2023 is based on no evidence.

12. A counter affidavit has been filed on behalf of the State in para-6 of which it is stated that the Principal of the College participated in the meeting on 20.10.2023 alongwith hard and soft copy of 'Power Point Presentation'. The said presentation was examined by the Education Department and in presence of the Principal building of the College has been found in deprecated condition which cannot be used for study for the students. Some photographs of the building of the College produced by the Principal alongwith 'Power Point Presentation' is being brought on record (Annexure-R/2 to the counter affidavit). Learned counsel for the University submits that matter regarding approval of permanent affiliation of the petitioner college has been considered by the State Government as per Resolution No. 2261 dated 18.10.1976 and the same has been rejected by order as contained in Memo No. 4081 dated 04.11.2023 on the pretext that building of the petitioner is in deprecated condition whereas as per the said resolution seven rooms built with bricks are required and therefore, the petitioner



does not fulfill the condition regarding the building (Annexure-R/3 to the counter affidavit).

13. This Court has directed the petitioner to file a fresh representation before the authority enclosing all the documents, photographs of the building, but the petitioner’s counsel has refused to file any representation before the authority.

14. Considering the arguments of the parties and perusal of the records, this Court does not pass any positive order in favour of the petitioner because there is no positive finding regarding the petitioner’s college possessing eight concrete rooms.

15. Accordingly, the present writ petition stands dismissed.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2024
Transmission Date	NA

