

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4565 of 2019

1. Jay Shankar Prasad and Ors S/o Late Bhola Mishra Vill.- Phulhara, P.s.- Hasanpur, Distt.-Samastipur
2. Abhiram Jha S/o Madhu Kant Jha Vill.- Belahi, P.s.- Pandaul, Distt.- Madhubani
3. Dhirendra Kumar Jha S/o Late Janardan Jha Resident of Mohalla- Railways Gumti, P.s.- Sadar, Distt.- Madhubani
4. Ram Bilas Sahani S/o Dhanik Sahni Vill.- Bikrampatti, P.s.- Khanpur, Distt.- Samastipur
5. Dhruv Nath Jha S/o Late Chakradhar Jha Resident of Mohalla- Mangla Gauri, P.s.- Bhikhna Pahari, Distt.- Patna
6. Sanjay Kumar Pandey S/o Kailash Pandey Vill.- Basantpur Bakhri, P.s.- Sakrra, Distt.-Muzaffarpur
7. Randhir Jha S/o Lat Budhan Jha Vill.- Birsair, P.s.- Sakri, Distt.- Madhubani
8. Chandramani Mistry S/o Bisheshwar Mistry Resident of Hasopur, P.s.- O.P., Distt.- Nalanda
9. Lav Singh S/o Wakil Singh Vill.- Babhankanpa, P.s.- Rani Talaw, Distt.- Patna
10. Kiran Kumari W/o Lakhandeo Mishra Vill.- Samho, Ps.- Samho, Distt.- Begusarai
11. Anjani Mohan Thakur S/o Keshav Mohan Thakur Vill.- Dumaria, P.s.- Motia, Distt.- Godda
12. Harishchandra Mishra S/o Uma Kant Mishra Vill.- Prasad, P.s.- Madhepur, Distt.-Madhubani
13. Sanjeev Kumar Jha S/o Amar Nath Jha Vill.- Jogiyara, P.s.- Bahadurpur, Distt.- Darbhanga
14. Rakesh Kumar Jha S/o Ganesh Chandra Jha Vill.- Ganaun, P.s.- Ghanshyampur, Distt.- Darbhanga
15. Gopal Krishna Jha S/o Tara Kant Jha Vill.- Nawada, P.s.- Bahera, Distt.- Darbhanga
16. Shankar Kumar Mishra S/o Hare Ram Thakur Vill.- Pali, P.s.- Ghanshyampur, Distt.-Darbhanga
17. Kavita Kumari W/o Navin Kumar Mishra Resident of Mohalla- Sarvoday Nagar, P.s. and Distt.- Begusarai
18. Rupak Kumar S/o Dhanesh Prasad Rai Resident of Mahila Vidyalaya, Begusarai, P.s. and Distt.- Begusarai
19. Uttam Kumar Jha S/o Madan Mohan Jha Resident of Bela, P.s.- Khajauli, Distt.- Madhubani
20. Raj Kumar Gupta S/o Late Murli Manohar Gupta Resident of Chowk Bazar, P.s.- Rafiganj, Distt.-Aurangabad
21. Meena Devi W/o Shiv Shankar Yadav Resident of Vill.- Hariswara, p.s.- Kanhauli, Distt.- Madhubani
22. Shobha Kumari D/o Drishna Nandan Singh Resident of Vill.- Sater, P.s.- Khajauli, Distt.- Madhubani



23. Baijnath Yadav S/o Jagdish Yadav Resident of Vill.- Hariswara, P.s.- Kanhauli, Distt.- Madhubani
24. Ranjit Kumar Yadava S/o Ramashish Yadav Resident of Vill.- Hariswara, P.s.- Khajauli, Distt.- Madhubani
25. Santosh Jha S/o Rama Nand Jha Resident of Vill.- Bijulia, P.s.- Shamho, distt.- Begusarai
26. Krishna Chandra Jha S/o Late Harischandra Jha Resident of Vill.- Birsair, P.s.- Sakri, Distt.- Madhubani
27. Anil Kumar S/o Jawahar Prasad Singh Resident of Vill.- Selara, P.s.- Khajauli, Distt.- Madhubani
28. Birendra Kumar S/o Saryu Mahto Resident of Vill.- Man Sagar P.s.- Rupo, Distt.- Nawada
29. Suresh Prasad Singh S/o Ram Chandra Singh Resident of Vill.- Gawpur, P.s.- Ujiyarpur, Distt.- Samastipur
30. Indradeo Narayan Sharma S/o Bindeshwari Sharma Resident of Vill.- Khajauli, P.s.- Khajauli, Distt.- Madhubani
31. Rabindra Kumar Yadav Resident of Vill.- Hariswara, P.s.- Khajauli, Distt.- Madhubani
32. Ramesh Kumar Yadav S/o Rajdeo yadav Resident of Vill.-Saharwa, P.s.- Rajnagar, Distt.- Madhubani
33. Siya Ram Nirala S/o Ram Charitra Mehra Resident of Vill.-Pipra Tol, P.s.- Jaynagar, Distt.-Madhubani
34. Shailendra Kumar Jha S/o Late Parmeshwar Jha Resident of Vill.-Birsair, P.s.- Sakri, Distt.- Madhubani
35. Sunita Kumari D/o Late Dayanand Jha Resident of Vill.-Shamho, P.s.- Shamho, Distt.- Begusarai
36. Mandodari Kumari D/o Krishna Deo Prasad Resident of Vill.-Balwapar, p.s.- Chakbai, Distt.- Nawada
37. Raghubansh Jha S/o Late Jagannath Jha Resident of Vill.-Rashidpur, P.s.- Rajnagar, Distt.- Madhubani
38. Ram Udgar Ram S/o Jagdeo Ram Resident of Vill.-Hariswara, P.s.-Rajnagar, Distt.-Madhubani
39. Chandradeo Kumar S/o Tapeswar Singh Resident of Vill.-Babhan Kanba, P.s.- Saidabad, Distt.- Patna
40. Prem Kant Rai S/o Surya Kant Rai Resident of Vill.-Birsair, P.s.- Sakri, Distt.- Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Art, Culture and Youth Department, Govt. of Bihar, Patna
2. The Director Art, Culture and Youth Department, Govt. of Bihar, Patna
3. The Bihar School Examination Board through its Secretary, Patna
4. The Secretary Bihar School Examination Board, Patna



... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kripa Nand Jha, Adv.
For the BSEB	:	Mr. Gyan Shankar, Adv.
For the State	:	Ms. Anamika Kumar, AC to GP 21

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-09-2025

Heard the parties.

2. The batch of students of Mithila Hanumant National College of Health and Physical Education have approached this Court seeking a direction upon the respondents to hold and conduct the examination as they have completed their training course in Certificate of Physical Education and Diploma in Physical Education since long back.

3. Mr. Kripa Nand Jha, learned Advocate for the petitioner submitted that despite the fact the petitioners have completed the course of Certificate of Physical Education and Diploma in Physical Education from the recognized institution and the Bihar School Examination Board (hereinafter referred to as the 'Board') is under the bounden duty to hold and conduct the examination of these petitioners, they have been shirking from their responsibility, notwithstanding the order of this Court, directing for the same.

4. Learned Advocate for the petitioner has drawn the attention of this Court to various annexures to impress upon



that the institution in question had been initially granted provisional recognition vide Anneuxre-1 long back on 29th August, 1987 and thereafter permanent affiliation vide Anneuxre-3 as contained in Notification dated 31.05.1995 as also the order passed in CJWC No. 10185 of 2002 directing the Board to conduct examination, but to utter surprise the same has not been done. The Director of the institute had also approached in CWJC No. 5103 of 2008, whereby the Court vide its order dated 18.12.2008 had categorically directed the Board to hold the examination of the petitioner's institution preferably within three months, unless there is any other impediment in law for the same.

5. In the meanwhile, the National Council for Teacher Education Act, 1993 came into force and thereafter the institution persuaded the matter and has been allowed recognition vide order No 30756 dated 03.03.2015. Notwithstanding the aforesaid fact, when the petitioners' institution was not granted affiliation with the Board, they again rushed to this Court in CWJC No. 4035 of 2017 and finally the Board has extended affiliation in favour of the petitioners' institution vide Anneuxre-15 under Memo No. 53 dated 06.03.2021 with effect from session 2020-22. Adverting to the



aforesaid facts, he thus submitted that besides the institution in question had permanent affiliation and recognition with the National Council for Teacher Education (NCTE), the Board has never conducted examination and as such the entire career of the petitioners has been put to lurch and jeopardy. Submission has also been made that the institution is subjected to discrimination when with respect to the students of other institutes, the examination has been conducted by the Board; nonetheless they were not even recognized with the NCTE and affiliated by the Board.

6. Mr. Gyan Shankar, learned Advocate for the Board made a preliminary objection with regard to the maintainability of the writ petition, in absence of any specific particulars, with respect to the individual petitioners as to under which academic session they have admitted in the College and pursued their courses. Neither any specific particulars of the students have been mentioned nor justified the delay in approaching this Court. Even if the for the sake of argument it is accepted that the petitioners were of the students of session 1987-88 onward, the present writ petition is manifestly barred by delay and laches as all the petitioners have almost completed 50 years of their age, is the contention of the learned Advocate for the Board. It is



further argued that the decision on which reliance has been placed by the learned Advocate for the petitioner in CWJC No. 5103 of 2008, was subject matter of Letters Patent Appeal No. 1181 of 2010 wherein the learned Division Bench has been pleased to set aside the order dated 18.12.2008 passed by the learned Single Judge and allowed the appeal. Referring to the decision afore noted, it is submitted that in the referred case the Director of the institution had specifically taken plea with respect to the students of all batches of 1987-88 to 1999-2000 to allow them to appear in the examination but the same was negated by observing as follows:

“.....Learned counsel for the respondent has sought to reiterate what has been stated in the impugned order under appeal but is unable to answer this aspect of the matter. Learned counsel is further unable to show why the writ petitioner had slept over the matter for nearly five years before again approaching this Court, which created the situation in the meantime that the powers of the State Government have been taken away. Since the matter related to the old batches of 1987-88 to 1999-2000 there was no justification after coming into force of the NCTE Act in 1993 with effect from 1.7.1995 and more particularly coming into force of the 2005 Regulations from 13.01.2006. We are, thus, of the view that no such challenge in view of the entirely changed circumstances was permissible to the notice dated 29.4.2003 which was not challenged



earlier despite the clear direction of this Court by order dated 13.5.2003 while dismissing the modification petition as not maintainable.

A stand has taken by learned counsel for the writ petitioner-respondent that the petitioner was pursuing his remedy on the basis of legal advice through the contempt petition. We are afraid that no such remedy was available to the writ petitioner in view of the fact that no adjudication can be made in a contempt petition in which the only issue is whether there has been any wilful disobedience of the order of this Court or not. If the writ petitioner was aggrieved by the notice dated 29.4.2003 he ought to have challenged it immediately and not allowed the earlier direction of this Court to become redundant by coming into force of the statutory regulations of 2005.....”

7. At this juncture, learned Advocate for the petitioner interjected and submitted that the affiliation granted by the Board is also not in terms with Bihar School Examination Board, Diploma in Physical education (D.P.Ed.) course affiliation Regulation, 2017, especially sub-clause (xiii) of Regulation 8.

8. Having considered the submissions set forth by the learned Advocates for the respective parties, this Court does not find any merit in the writ petition on various reasons.

9. It is trite that a point which is ostensibly a point of



law is required to be substantiated by facts, the parties raising the point, if he is the writ petitioner, must plead and prove such facts by evidence which must appear from the writ petition and if he is the respondent, from the counter-affidavit. If the facts are not pleaded or the evidence in support of such facts is not annexed to the writ petition or to the counter, affidavit, as the case may be, the court will not entertain the point. [*vide; Bharat Singh & Ors vs State Of Haryana & Ors, AIR 1988 SC 2181*]

10. In the case in hand, necessary facts and the particulars are also lacking. Above all, certain material facts have also not been placed before this Court which clearly suggests a move on the part of the petitioners to get a favourable order. Reliance of the petitioners on a Bench decision of this Court in CWJC No. 5103 of 2008, copy of which is marked as Anneuxre-6 to the writ petition, duly preferred by the Director, Mithila Hanumant National College of Health and Physical Education, of which the petitioners are claiming to be the students, also fortifies the aforesaid observation regarding clandestine move of the petitioners. The order of the learned Single Judge was put to challenge in LPA No. 1181 of 2010 wherein the students of the college in question were directed to appear through another institution for examination. The learned



Division Bench had also taken note of the fact that the matter was related to old batches of 1987-88 to 1999-2000 but they have slept over the matter for a petty long time and finally the order of the learned Single Judge dated 18.12.2008 was set aside and the Letters Patent Appeal was allowed.

11. Once such issue has already been given quietus by the learned Division Bench of this Court in the above referred case agitating the identical grievance is wholly impermissible. This Court also finds that the petitioners were the students for the session 1987-88 and onwards and now they have approached this Court after 2-3 decades to hold the examination of their training courses in Certificate of Physical Education and Diploma in Physical Education which can not be entertained at this stage and is hopelessly barred on account of such delay and laches.

12. In view of the discussions made hereinabove and the reasons assigned, the present writ petition stands dismissed, having no merit.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	24 .09.2025
Transmission Date	

