

IN THE HIGH COURT OF JUDICATURE AT PATNA

CIVIL REVIEW No.76 of 2022

In

Letters Patent Appeal No.293 of 2020

National B.Ed College of Higher Education, Murgichak Road Mohammadpur Janipur, Patna through its Secretary Madhuri Kumari (F), aged about 45 years, Daughter of Late Ram Chandra Jha, R/o Apurva Radha Complex, 3rd Floor, Office No.303, Patna, Bihar-800001.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, New Secretariat (Vikash Bhawan), Patna.
2. The Bihar Examination Board, Sinha Library Road, Patna through its Secretary
3. The Chairman Bihar School Examination Board, Sinha Library Road, Patna.
4. The Secretary Bihar School Examination Board, Sinha Library Road, Patna.
5. The Bihar School Examination Board, Patna through its Secretary,
6. The Chairman Bihar School Examination Board, Patna.
7. The Secreary, Bihar School Examination Board, Patna.
8. The (Director) Bihar School Examination Board, Patna.
9. The Eastern Regional Committee-National Council for Teacher Education, 15 Neelkanth Nagar, Nayapalli,

... .. Opposite Parties

Appearance :

For the Petitioner	:	Ms. Nivedita Nirvikar, Sr. Advocate Mr. Arya Achint, Advocate
For the State	:	Mr. Priyadarshi Matri Sharan, AC to AAG-15
For the BSEB	:	Mr. Satyabir Bharti, Sr. Advocate Mr. Abhishek Anand, Advocate Ms. Kanupriya, Advocate Ms. Aastha Prakash, Advocate
For the NCTE	:	Mr. Sunil Kumar Singh, Advocate Mr. Tanay Bhaskar, Advocate Mr. Ravi Ranjan Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

and

HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 09-12-2025



This review application has been preferred seeking review of the judgment dated 07.03.2022 passed by Hon'ble Division Bench of this Court in LPA No. 293 of 2020 (arising out of CWJC No. 3936 of 2019) (hereinafter referred to as the 'judgment under review').

2. By the judgment under review (in short 'JUR'), the Hon'ble Division Bench of this Court has been pleased to record a finding that the National B.Ed. College of Higher Education (hereinafter referred to as the 'Institute or College') had submitted the requisite application for affiliation three months after the cut-off date and had taken admission of students much before the affiliation was granted by the Bihar School Examination Board (hereinafter referred to as the 'Board'). The Division Bench was of the view that directing the Board to give affiliation to the Institute for the academic session 2017-19 would be in the nature of misplaced sympathy for the students. In the opinion of the Hon'ble Division Bench, such wrongful admission in Institutes have to stop.

3. It appears that two sets of writ applications were preferred in this matter. The Institute filed CWJC No. 3936 of 2019 with a prayer to direct the respondents to grant and issue order/notification of affiliation to National B.Ed College of Higher



Education, Village-Murgiachak, Street/Road- Mohammadpur, Taluka/Mandal – Janipur, Town/City – Murgiachak, District – Patna, Bihar – 801505 for the academic session 2017-19 instead of session 2018-20. The petitioner in the said writ application prayed for a declaration to the effect that the action on the part of the concerned respondent authorities in not granting and issuing the order/notification of affiliation to the college in accordance with Section 16 of the National Council for Teacher Education Act, 1993 (in short ‘NCTE Act, 1993) for academic session 2017-19 smacks colourable exercise of power on the part of the concerned authorities of the Board.

4. The writ application was contested by the Board and its authorities (Respondent Nos. 5 to 8). It was contended that the petitioner college/institute had been granted recognition by the National Council for Teacher Education (in short ‘NCTE’) in the year 2017 for the academic session 2017-18 after promulgation of NCTE Regulation, 2014 and no examination pertaining to the D.El.Ed. Course of the petitioner institute had earlier been conducted by the Board, therefore, the petitioner institution would not come under the ambit of the Amendment Rule as promulgated *vide* Bihar School Examination Board (Issuance of No Objection Certificate, Application Norms and Procedure) (Amendment)



Regulation, 2018. Accordingly, the affiliation to the petitioner institute was granted by the Board on 03.01.2018 for the academic session 2018-2020. The Board denied the claim of the petitioner institute for grant of affiliation from a prior period i.e. for the session 2017-19.

5. It appears that the learned writ court was not impressed with the plea taken by the petitioner college. The writ application was dismissed *vide* judgment dated 13.08.2020. The issue raised by the petitioner with regard to the affiliation for the session 2017-2019 has been considered in paragraphs '17' and '18' of the judgment of the learned Writ Court which we reproduce hereunder:-

“17. The next question to be considered is as to whether the petitioner college is entitled to be granted affiliation by the respondent Board for the session 2017-19 or the session 2018-20 ?

18. In order to answer this issue, it would be relevant to advert to the schedule fixed by the Hon'ble Apex Court in the case of Maa Vaishno Devi Mahila Mahavidyalaya (supra), according to which the formal order of recognition is to be issued by the NCTE by the 3rd March of each year, however, in the present case, the said order of recognition was issued by the NCTE only on 2.5.2017. Moreover, the aforesaid schedule, fixed by the Hon'ble Apex Court, prescribes the late date of submissions of proposal for affiliation as 10th of March of each year or within a period of 7 days of the issuance of formal order of recognition by the NCTE, however, in the present case,



the petitioner college had sat over the matter and after a delay of about three months, had applied before the Board only on 4.8.2017 for grant of affiliation by the examining body, whereafter the same was processed by the respondent Board and the petitioner college was granted affiliation by the respondent Board for the Session 2018-2020 vide letter dated 3.11.2018 inasmuch as last date fixed for grant of affiliation for the relevant academic year i.e. 10th March of each year, as fixed by the Hon'ble Apex Court, in the judgment, rendered in the case of Maa Vaishno Devi Mahila Mahavidyalaya (supra) had expired, hence the petitioner institution could not be granted affiliation for the Session 2017-18, since granting affiliation for the Session 2017-18 would have amounted to disobeying and violating the schedule fixed by the Hon'ble Apex Court. Nonetheless, this Court finds that the respondent Board has acted fairly in granting affiliation to the petitioner institution for the session 2017-18 in terms of the judgment rendered by the Hon'ble Apex Court in the case of Anuragi Devi (supra). This Court further finds that as per Regulation 5(B) (iv) of the Bihar School Examination Board, D.L. Ed. Course Affiliation/ Regulation, 2016, the petitioner institution was required to file application for affiliation before the respondent Board within a period of 10 days from the date of grant of recognition by the NCTE, however, the petitioner institution took three months' time to file such application, hence, on this ground as well, the case of the petitioner is fit to be rejected and the petitioner college cannot claim equity for its students especially in view of the default and laches committed by the petitioner college itself. This Court further finds that even the learned Senior counsel appearing for the petitioner College has not been able to dispute the well settled law to the effect that the schedule fixed by the Hon'ble Apex Court in the



case of Maa Vaishno Devi Mahila Mahavidyalaya (supra) has to be adhered to strictly and the same cannot be violated by any authority for any reason whatsoever and any non-compliance of the same has been held by the Hon'ble Apex Court to be amounting to violation of the orders of the Hon'ble Apex Court. Thus, this Court is of the opinion that since the schedule fixed by the Hon'ble Apex Court in the case of Maa Vaishno Devi Mahila Mahavidyalaya (supra) has not been adhered to in the present case and on the contrary has been violated, even by the petitioner college, no relief can be granted to the petitioner college, as far as grant of affiliation by the respondent Board for the Session 2017- 9 is concerned and in fact, this Court finds that the respondent Board has been quite reasonable in granting affiliation to the petitioner institution for the D.L. Ed. Programme for the Session 2018-20, despite the entitlement of the petitioner college for grant of affiliation for the session 2017-19 having expired on account of non-adherence to the schedule fixed by the Hon'ble Apex Court in the case of Maa Vaishno Devi Mahila Mahavidyalaya (supra). This Court further finds that Regulation 8(10) of the aforesaid Regulation, 2014 clearly provides that admission by the concerned institution can only be made after affiliation is granted by the affiliating body. Thus, this Court is of the view that the petitioner institution had illegally taken admission for the Sessions 2017-19 pertaining to the B. EL. Ed. Programme even though it had not been granted affiliation by the respondent Board.”

6. It further appears that some students of the institute/college also filed a writ application being CWJC No. 2589 of 2020 (Prabha Kumari and Others versus The State of



Bihar and Others). The National B.Ed College for Higher Education who was the petitioner in CWJC No. 3936 of 2019 was impleaded as Respondent No. 10 in CWJC No. 2589 of 2020. The reliefs prayed in this writ application were as under:-

“(i) For issuance of an appropriate writ/writs, direction to quash the memo no. 02-04/2019-132 dated 13.09.2019 issued by the respondent Director (Education), Bihar School Examination Board as it has not followed the direction passed by the Hon’ble Court on 20.08.2019 in CWJC No. 16962 of 2019 in which the Hon’ble Court was pleased to make a direction to the board “To consider the claim of the petitioners in terms of the judgment dated 28.03.2019 passed in CWJC No. 19046 and if the case of the present petitioner is similar to the petitioner of CWJC No. 19046 of 2018, similar benefits should be extended to these petitioners at the earliest so that the petitioners may not suffer adversely in the matter of examination in the current academic session”.

(ii) Issuance of an appropriate direction, order or writ including writ in the nature of mandamus commanding the concerned respondent authorities to accept examination fee and examination form of the students of the college of D.El.Ed. Course for the academic session 2017-19 and issue admit card, take examination and publish results, issue mark sheets and certificates accordingly and if needed for the said relief the respondent no. 10, the National B.Ed. College of Higher Education, Village – Murgichak, Street/Road – Mohammadpur, District – Patna, Bihar – 801505 may be given affiliation by the Board.

(iii) For any other relief/reliefs for which the petitioners are entitled to get.”



7. This writ application was taken up for consideration by another learned Single Judge of this Court when CWJC No. 3936 of 2019 was pending awaiting judgment which was reserved on 16.05.2019.

8. In CWJC No. 2589 of 2020, the learned Writ Court has recorded in its operative part of the judgment as under:-

“.... Having heard the submissions of both sides, I find that respondent no.10, National B.Ed. College for Higher Education, approached this Court in CWJC No.3936 of 2019 for grant of affiliation for the session 2017-19. Admittedly, respondent no.10 admitted the students in Elementary Education in session 2017- 19 without grant of affiliation which is exclusively prohibited by the Hon’ble Supreme Court in the case of Maa Vaishno Devi Mahila Mahavidyalaya (supra). Mrs. Nivedita Nirvikar, the learned counsel for the petitioners, relentlessly tried to persuade this Court to pass order on the petition of the petitioners and set aside Memo No.02-04/2019-132, dated 13.09.2019 (Annexure- 6) refusing to grant affiliation and it is further submitted that at least the petitioners should be allowed to take on examination after depositing required fee, but, in my view, the submissions of the learned counsel for the petitioners, is not acceptable on the simple ground that the petitioners got themselves admitted in unaffiliated college in session 2017-19. The Institution, respondent no.10, has already filed CWJC No.3936 of 2019 for the same and similar relief, i.e., for grant of affiliation for session 2017-19 in Diploma in Elementary Education Course. The same is pending for delivery of the judgment. The Institution during the pendency of CWJC No.3936 of 2019 again



filed CWJC No.21059 of 2019 for quashing Memo No.02-04/2019-132, dated 13.09.2019 (Annexure-6 in this writ petition) and the writ petition was disposed of with liberty to respondent no.10, petitioner of that case, to file I.A. petition in CWJC No.3936 of 2019. The petitioners being the students of respondent no.10 again filed this writ petition and thus, in order to maintain the judicial propriety and discipline, I am of the view that this petition be disposed of without expressing any opinion on the merit of the case with liberty to the petitioner to file I.A. petition in the same writ petition being CWJC No.3936 of 2019, which has already been heard by a co-ordinate Bench of this Court and the case is reserved for order.

Accordingly, this writ petition is disposed of with the aforesaid liberty.”

9. The students who were writ petitioners in CWJC No. 2589 of 2020 preferred Letters Patent Appeal No. 222 of 2020. In the said Letters Patent Appeal, vide order dated 06.03.2020 the Hon’ble Division Bench directed that the students be allowed to appear in the examination in question which was to take place from 17th of March, 2020. This was, however, subject to the outcome of the appeal and without claiming any equity by the appellants. The respondent – Bihar School Examination Board was directed to issue admit cards to the students on their complying with the formalities but the publication of result was made subject



to the outcome of the writ application filed by the writ petitioners/appellants as also by the Educational Institution.

10. After that interim order of the Division Bench in LPA No. 222 of 2020, the judgment which was reserved by the Writ Court in CWJC No. 3936 of 2019 was delivered on 13.08.2020. The writ application stood dismissed. The college/institute challenged the judgment of the Writ Court in LPA No. 293 of 2020. Under these circumstances, both LPA No. 222 of 2020 and LPA No. 293 of 2020 were clubbed and heard together.

11. Both the LPAs were dismissed *vide* the Judgment under Review.

12. One more development which took place in these matters is that the students-appellants in LPA No. 222 of 2020 preferred a Special Leave to Appeal (C) No(s). 5386 of 2022 before the Hon'ble Supreme Court of India. The Special Leave to Appeal (C) Nos. 5386 of 2022 came to be heard on 18.04.2022. The Special Leave to Appeal was, however, dismissed. A perusal of the order dated 18.04.2022 passed by the Hon'ble Supreme Court in the Special Leave to Appeal shows that the same Lawyer Mrs. Nivedita Nirvikar, who is the Senior Advocate representing the review petitioner before this Court, was the lawyer for the



students -appellants in LPA No. 222 of 2020 and also before the Hon'ble Supreme Court in the Special Leave to Appeal.

13. The present civil review application has been preferred on 10.05.2022 on behalf of the institution/college. It is evident that the review application has been preferred by the college after dismissal of the Special Leave to Appeal filed by the students before the Hon'ble Supreme Court. We are alive to the submission that the dismissal of the Special Leave to Appeal was *in limine*, therefore, the principle of merger would not apply but at the same time, we have to take note of the fact that while the 'JUR' is a common judgment in respect of the LPAs filed by the College and the students both, the students who were appellants in LPA No. 222 of 2020 have not preferred any civil review application.

14. We are, therefore, left with a situation where the 'JUR' is in respect of two LPAs, the appellants of one of the LPAs having exhausted their remedy before the Hon'ble Supreme Court did not think it proper to apply for the remedy of review. On the other hand, the college/institute who was one of the appellant in LPA No. 293 of 2020 has preferred this civil review application.

15. In such circumstance, we are of the considered opinion that the civil review preferred by the college/institute alone is not fit to be entertained.



16. Having said so, we have also perused the ‘JUR’. It is an admitted position that the appellant/institute had taken admission of the students without affiliation for the session 2017-19 even when the recognition by the NCTE has clearly specified that no admission was to be taken before the affiliation by the Board. It has been clarified in the ‘JUR’ that with respect to giving deemed affiliation to other institutes till the session 2016-18 it was because of the restrictive amendment which was brought in the Regulation of 2016 keeping the cut-off session 2014-15 which was read down and was extended till 2016-18 by an order of this Court which attained finality with the dismissal of the Special Leave to Appeal against such order.

17. The judgment under review has further clarified the reasoning and rationale behind reading down the amendment in the following words”-

“.... The rationale and justification for such reading down was that the amendment had been carried out only on 07.07.2018 and that the Institutes in question stood on the same footing with respect to sessions 2015-17 and 2016-18 as for such sessions, the students had already been permitted to appear in the examination even without the affiliation by the Board.”

18. The Hon’ble Division Bench has held in this case that the institute had submitted the requisite application for



affiliation three months after the cut-off date and had taken admission of the students much before the affiliation was granted by the Board.

- 19. We find no error apparent on the face of the record.
- 20. The civil review application is dismissed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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CAV DATE	
Uploading Date	12.12.2025
Transmission Date	

