

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1164 of 2024
In
Civil Writ Jurisdiction Case No.15696 of 2024

1. The Bihar Engineering University through its Vice Chancellor, Office at Bihar Engineering University, 6th Floor, Examination Block, Aryabhatta Knowledge University, Mithapur, Patna, Bihar-800001.
2. The Registrar, Bihar Engineering University, 6th Floor, Examination Block, Aryabhatta Knowledge University, Mithapur, Patna, Bihar-800001.
3. The Controller of Examination, Bihar Engineering University, 6th Floor, Examination Block, Aryabhatta Knowledge University, Mithapur, Patna, Bihar-800001.

... .. Appellant/s

Versus

1. Aditya Kumar son of Amar Kumar, resident of Kalyani Bara Lane, P.S - Town Thana, Muzaffarpur, Bihar - 842001.
2. Sanjeev Kumar son of Bhagwan Babu Yadav, resident of Bhawanipur, Singhawara, Darbhanga, Bihar 847104.
3. Sakshi Kumari, D/o Satish Prasad Gupta, resident of Koat Bazar, P.S- Sitamarhi, P.O - Dumra, Sitamarhi, Bihar - 843302.
4. Vinay Kumar, son of Shivnarayan Ram, resident of Sitwapur, P.S Shikarpur, P.O - D.K.Shikarpur, West Champaran, Bihar - 845455.
5. Rohit Kumar, S/o Uday Sah, resident of Gaushala Road, Ambedkar Chowk, Sitamarhi, Bihar - 843302.
6. Sambhav Kumar Singh S/o Binay Kumar Singh, resident of Parsa Bazar, New Rahimpur, Parsa Sampatchak Road, Patna-804453.
7. Prince Kumar, S/o Ajay Kumar, resident of Village Kabariya, P.O Kabariya, Darbhanga, Bihar 846009.



8. Sandeep Kumar, S/o Mithlesh Paswan, resident of Village- Vrindawan, P.O- Vrindawan, P.S- Tariyani, Sheohar, Bihar-843128.
9. The Principal, Sitamarhi Institute of Technology, Sitamarhi, Gosaipur, Dumra, Sitamarhi - 843302.
10. The Examination Controller, Sitamarhi Institute of Technology, Sitamarhi, Gosaipur, Dumra, Sitamarhi - 843302

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Satyam Shivam Sundaram, Advocate Mr. Ankit, Advocate
For the Respondent/s	:	Ms. Nivedita Nirvikar, Sr. Advocate Mr. Shashank Shekhar, Advocate Mr. Amarshakti, Advocate Ms. Asmita Bharti, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 15-05-2025

Re.: L.P.A. No. 1164 of 2024

The matter was heard yesterday and an order was passed in open Court. However, some clarification was required on facts. Therefore, the case was listed under the heading “To Be Mentioned”.



Re.: I.A. No. 01 of 2024

2. Mr. P.K. Shahi, the learned Senior Advocate for the appellants presses the aforesaid interlocutory application for condoning the delay of 02 days in preferring this appeal.

3. For the reasons stated in the application, the delay of 02 days in preferring this appeal is, hereby, condoned.

4. I.A. No. 01 of 2024 stands allowed.

Re.: L.P.A. No. 1164 of 2024

5. We have heard Mr. P.K. Shahi, the learned Senior Advocate for the appellants and Ms. Nivedita Nirvikar, the learned Senior Advocate for the respondents/writ petitioners.

6. The writ petitioners are students of B.Tech Course in Sitamarhi Institute of Technology, Sitamarhi, affiliated to Bihar Engineering University, Patna.

7. The writ petitioners were not permitted to appear in the 5th semester examination on the ground of



their not possessing requisite attendance percentage. The requirement is of having 75% attendance before permission could be granted for appearing in any semester examination. All the writ petitioners were having much less than 75% of attendance. However, later, with the intervention of the Court, they were permitted to appear in the 6th semester examination after having attended the classes for 6th semester.

8. Similar situation occurred when with the intervention of this Court, they attended the classes of 7th semester and also wrote their examination.

9. All this happened even without the writ petitioners having appeared in the 5th semester examination.

10. An attempt was made by the writ petitioners thereafter for seeking permission from the Court to write the 8th semester examination.

11. The learned Single Judge *vide* his interim order dated 08.10.2024, permitted the writ petitioners to



appear in the final examination of 6th semester, which was scheduled to be conducted from 14.10.2024.

12. As noted above, with all these concessions to the writ petitioners, they have attended classes for 6th and 7th semesters and have also written their examination for the 6th and 7th semesters. However, the results have not been declared for want of the passing certificate of 5th semester.

13. The appellants/Bihar Engineering University has questioned the aforesaid interim order dated 08.10.2024 on the ground that such concessions are misplaced, especially in view of the deteriorating academic environment in the University and the colleges.

14. Initially, the college in question was affiliated to Aryabhatta Knowledge University and only later, such colleges have been affiliated with Bihar Engineering University.

15. However, the rules and the regulations prevalent when the college was affiliated with Aryabhatta



Knowledge University, apply even now with the same vigour.

16. The regulations provide the right of the Institute to cancel the admission of any student at any stage of his career on the ground of either (i) unsatisfactory academic performance or (ii) irregular attendance in classes or (iii) indiscipline. The regulations further provide that a minimum of 75% attendance would be mandatory in each semester for permission to any student to appear in the end of the semester examination.

17. The other provision of the regulations, referred to above, is that any student who is prevented from appearing at an examination, either as a measure of disciplinary action or for adopting malpractice at an examination, may register for the subject(s) as backlog papers in the following semester. Such debarred students would attend the classes as per the rules before they became entitled to write the examination at the end of the semester.



18. However, considering that the case involves the career of many students, we explored some way of salvaging their career.

19. We had requested Mr. P.K. Shahi, the learned Senior Advocate to liaise with the University and tell us as to how the writ petitioners' journey in education could be permitted to be completed with minimum losses.

20. We must, upfront, state that such an effort was made also for the reason that with the intervention of the Courts, such piquent situation had arisen, which required course correction.

21. Mr. Shahi, after consulting with the Vice-Chancellor of the Bihar Engineering University, submitted that it is now possible only to permit the writ petitioners to appear in the 5th semester examination but after they have attended the classes of the 5th semester with the batch of 2023-2027.

22. The reason for not permitting the writ petitioners to appear in the 5th semester with the batch of



2022-2026 is that in the middle of the semester, examination is held and the marks obtained therein are added in the final semester examination result. The 5th semester of 2022-2026 batch is about to be completed.

23. The writ petitioners are of the 2021-2025 batch.

24. The University is also ready to permit the writ petitioners to go straightaway to the 8th semester, after they would successfully complete the course with requisite attendance of the 5th semester and pass in the 5th semester examination along with the batch of 2023-2027 students, in which case, their results of 6th and 7th semesters also shall be declared along with the result of 5th semester.

25. This definitely would make the writ petitioners lose a couple of years in completing their journey, but no other way appears to us in sight, to help out the writ petitioners.

26. With great reluctance, Ms. Nivedita Nirvikar,



the learned Senior Advocate appearing for the writ petitioners/respondents, submitted that if nothing else is possible, the students/writ petitioners would be ready to accept this offer from the University.

27. This concession, we must clarify, is also subject to caveats: (i) that the writ petitioners shall immediately join the classes along with 2023-2027 batch in the 5th semester; (ii) maintain a minimum of 75% attendance; and (iii) write the examination at the end of the semester.

28. If they pass in the 5th semester, as noted above, their results of 5th, 6th and 7th semesters would be declared simultaneously, entitling them to attend classes in the 8th semester with whichever batch which goes to the 8th semester at that time and complete the academic journey thereafter.

29. We find such concession given by the University to be most reasonable and in the interest of the students.



30. Thus, without interfering with the interim order impugned in the present appeal for the reason of the order having taken its effect, we endorse and ratify the afore-noted scheme in which the writ petitioners would write their 5th semester examination and since they have already written their examinations for 6th and 7th semesters, their results would be published simultaneously with 5th semester and if they pass in all the semesters, they would go to the 8th semester to attend classes and write the examination.

31. We concur with the scheme suggested and dispose off the appeal accordingly.

32. Interlocutory application(s), if any, also stand closed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Sujit-

AFR/NAFR	NAFR
CAV DATE	NA
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