

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11526 of 2024

1. Aashish Ranjan Son of Noroj Singh, Resident of Village and Post Office- Pansalwa, Police Station- Beldaur, District- Khagaria.
2. Ram Kumar, Son of Rajendra Kumar, Resident of Village- Dohat Narayan, Police Station- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
2. The Principal Secretary, Science and Technology Department, Government of Bihar, Patna.
3. The Director, Science and Technology Department, Government of Bihar, Patna.
4. The Bihar Engineering University, through its Registrar, Mithapur, Patna.
5. The Registrar, Bihar Engineering University, Patna, 6th Floor, Examination Block, A.K.U. Campus, Mithapur, Patna- 01.
6. The Principal, Darbhanga Engineering College, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Hari Shankar Roy, Adv.
For the State & Respondent No.6:		Mr. Standing Counsel-11
		Mr. Pyush Kumar Pandey, AC to SC-11
For the BEU	:	Mr. Satyam Shivam Sundaram, Adv.
		Mr. Ankit, Adv.
		Mr. Aman Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

14 23-04-2026 Heard learned counsel for the petitioners, learned counsel appearing for Bihar Engineering University, learned counsel for respondent no.6, the Principal Darbhanga Engineering College and learned counsel for respondent-State.

2. The petitioners in the present writ application has prayed for the grant of following reliefs:

“(i) For issuance of an appropriate



writ, order, direction to allow the petitioners to appear in 8th semester examination after accepting his fee form and midterm examination which is scheduled from 05.08.2024 to 17.08.2024 and midterm exam on 02.08.2024.

(ii) For issuance of an appropriate writ, order, direction to quash the order bearing letter no. 988 dated 11.06.2024 passed by respondent no. 6 by which the following punishments has been awarded against petitioners:-

(A) Petitioners have been found that major offence defined under clause- 3 of the regulation have been committed.

(B) The petitioner's examination of Backlog of 5th semester examination 2023 was cancelled for unfair means and further the petitioners have been expelled from the college.

(iii) For issuance of any other relief or reliefs for which the petitioners is found entitled under law.”

3. With regard to relief claimed in paragraph-1(i), learned counsel for the petitioners submits that the same has become infructuous and therefore he is not pressing the same and confining the present writ application to the relief claimed in paragraph-1(ii) of the writ application.

4. In the writ application the petitioners have challenged the order contained in Letter No.988 dated 11.06.2024 by which the petitioners' examination of Backlog of 5th semester examination 2023 has been cancelled for indulging



in unfair means and also the petitioners have been expelled from the college.

5. While advancing argument learned counsel for the petitioners assailed the impugned order dated 11.06.2024 contending that it has been passed by an incompetent authority in terms of Rule-3 of Disciplinary Rules for Government Engineering Colleges/Polytechnics (Annexure-12), which is not attracted in the facts and circumstances of the present case and hence the impugned order passed by authority is without jurisdiction and void *abi nitio*. Buttressing this point further, learned counsel for the petitioners submits that in the facts and circumstances of the present case, particularly in light of the Letter No.2415 dated 24.07.2024 (Annexure-P/9) issued by Bihar Engineering University Patna, the matter relating to indulging in unfair means and therefore the same should have been taken up and decided as per the regulation framed by the Aryabhatta Knowledge University, which has been brought on record by way of Annexure-P/10. He particularly refers to Clause-9 of appendix-1 of the said 'Rules regarding Conduct and Discipline' which is quoted herein below for needful:

“9. Cases of adoption of unfair means in an examination shall be dealt with by the Examination Disciplinary Committee of A. K. University Patna. If adoption of



unfair means is proved, the punishment may be, depending on the quantum of the offence and prior record, reduction of grade, de-registration of a course, expulsion for one or more semesters or outright expulsion from the Institute.”

6. *Per contra*, learned counsel appearing for the respondent Bihar Engineering University, for respondent no.6, the Principal Darbhanga Engineering College and the respondent-State submits that the impugned order has been passed by a competent authority and even as per Clause-5 of Appendix-1 of the ‘Rules regarding Conduct and Discipline’ framed under the regulation of Aryabhata Knowledge University, all major acts of indiscipline, which may have serious repercussion on the students in general and/or which may warrant a uniform and more formalized nature of investigation are to be handled by the Institute’s Disciplinary Committee appointed by Principal of the College. Therefore, from that point of view also, as per the respondent college and the Bihar Engineering University, the impugned order has been passed by a competent authority.

7. Learned counsel appearing for the respondents also submits that the argument advanced by learned counsel for the petitioners that the impugned order has been passed by an incompetent authority is an argument of desperation which is



not based on any foundational fact/pleading in the writ application. In fact, from the conduct of the petitioners it is manifest that the petitioners in terms of the liberty granted by the impugned order read with Clause-6 of the 'Disciplinary Rules for Government Engineering Colleges and Polytechnics', has already filed a representation before the Director, Science and Technology, Government of Bihar, Patna on 31.06.2024 (Annexure-P/7) thereby submitting himself to the authorities under the 'Disciplinary Rules'. In this regard paragraph nos.14, 15 and 16 of the writ application are quoted herein below for needful:

"14. That, thereafter the Principal, Darbhanga College of Engineering, Darbhanga issued office order bearing letter no. 988 dated 11.06.2024 by which the petitioners have been awarded punishment for major offence cancelling the 5th semester examination of petitioners for back log paper and also petitioners have been expelled from the College for the allegation not mentioned in the show cause notice (Annexure-P/4).

A photo copy of the office order bearing letter no. 988 dated 11.06.2024 is being annexed and marked herewith as Annexure-P/6 to this application.

15. That, there was a suggestion in Annexure- P/6 to file representation before Director, Science and



Technology Department, Government of Bihar if aggrieved hence the petitioner no. 1 made representation dated 21.06.2024 before Director, Science and Technology, Government of Bihar stating all the real facts and prayed to cancel the order contained in Annexure- P/6.

A photo copy of the representation dated 21.06.2024 is being annexed and marked herewith as Annexure-P/7 to this application.

16. That, till date no order has been passed by Director, Science and Technology, Government of Bihar, Patna on the representation of petitioner no. 1 contained in Annexure- P/7 and in the meantime dates for submission of fee / form for appearing in 8th semester (end semester) has expired and examination of 8th semester has been scheduled from 05.08.2024 to 17.08.2024 and midterm examination on 02.08.2024.

A photo copy of the notice memo no. 1215 dated 06.05.2024 issued by Examination Controller, Bihar Engineering University is being annexed and marked herewith as Annexure- P/8 to this application.”

8. On a careful consideration of the submissions made by both the parties and also on a careful perusal of the pleadings contained in the writ application and the subsequent affidavits filed by the petitioners, it is unequivocally clear that the



petitioners have not pleaded or made any averment challenging the impugned order on the ground of having been passed by an incompetent authority. In fact, from the conduct of the petitioners of availing the remedy provided by the impugned order of filing a review petition before the Director, Science and Technology, Government of Bihar, Patna read with Rule-6 of the 'Disciplinary Rules' makes it absolutely clear that the petitioners accepts the applicability of the 'Disciplinary Rules' and has therefore submitted himself to the jurisdiction of the authority under the said Rule by filing a review application/representation before the Director, Science and Technology, Government of Bihar, Patna vide Annexure-P/7, which as per the petitioners is still pending consideration.

9. Under the aforesaid facts and circumstances, I do not find any merit in the submission made by learned counsel for the petitioners that the impugned order has been passed by an incompetent authority and accordingly the present writ application stands dismissed. However, since the review application/representation dated 21.06.2024 is pending before the Director, Science and Technology, Government of Bihar, Patna vide Annexure-P/7, I consider it appropriate to direct the Director, Science and Technology Department, Government of



Bihar, Patna to dispose of the pending review application/representation of the petitioners within a period of three months from the date of passing of this order, after giving an opportunity of hearing to the petitioners. If the final decision of the Director, Science and Technology, Government of Bihar, Patna goes against the petitioners, the petitioners would be at liberty to challenge the same in accordance with law.

(Alok Kumar Sinha, J)

Prakash Narayan

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