
(2005) 04 PAT CK 0047
In the Patna High Court
Case No : CWJC No. 8096 of 2000

Alpana Sahay

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 15-04-2005

Acts Referred:

Citation : AIR 2005 Patna 159 : (2005) 2 BLJR 1129 : (2005) 2 PLJR 696

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.K. Katriar, J.—Heard Mr. Ajay Kumar for the petitioner, and Mr. Ahsanuddin Amanullah for respondent Nos. 2 to 6 (Magadh University)

2. According to the writ petition, the petitioner was a student of M.Sc Botany for the session 1996-98 in the Magadh University. She appeared at the examination held in December and January 2000. Photocopy of her mark-sheet is marked Annexure-4 to the writ petition which shows that she has failed in the following three papers :

- (i) Paper III General Physiology and ecology
- (ii) Paper IV Taxonomy, Anatomy, Embryology, Cytology and Economic Botany
- (iii) Cyto Genetics and Plant Breeding.

The petitioner has scored 9 out of 100 marks in Paper III. 16 out of 100 marks in paper IV, and 7 out of 100 marks in Paper V. It is further stated in the writ petition that she has a through been a very good student has answered all the questions required to be answered in the three papers. There was, therefore, no question for securing such low marks in the three papers in a situation where she has scored good marks in all other papers. The petitioner has although been a very good student and it is not in the natural course of events that she would score such low marks, as seems to have happened in the present case.

3. The respondents have placed on record their counter affidavit. Learned counsel for the respondent University has opposed the writ petition.

4. I have perused the materials on record and considered the submissions of learned counsel for the parties. By order dated 29.8.2000, the answer-books of the three papers in question were called for which have been produced before the Court on different occasions, and once again been produced today along with two more answer-books for the purpose of comparison. On a perusal of the answer-books learned counsel for the petitioner alleges that the middle portion of the three answer-books have consistently and uniformly been removed by someone or the other in the college or the university leaving some answers in the beginning the end portion of which (the answer) is absent. Equally, a small portion of the answer towards the end is on record, but the beginning portion of the answer of that question (appearing towards the end of the answer-book) is uniformly missing. The answer-books were made available to learned counsel for the petitioner for inspection who has filed a detailed supplementary affidavit stating therein the petitioner's version about the alleged irregularity on the part of the respondents.

5. I have thoughtfully considered the matter and considered the rival submissions. I must state that the issue is not free from difficulties. I, however, take the view that I have taken for the reasons indicated hereinafter. I propose to follow the line of least resistance and propose to concentrate on the points of convergence, rather than divergence. There are a number of factors in favour of the petitioner. It is undoubtedly correct to state that the petitioner has although been a good student. She passed the matriculation examination in the 1st division, the Intermediate examination in the 2nd division, and graduation (hons) in 1st class the mark-sheets whereof are marked Annexures 1, to 3 respectively. In so far as the present MSc. examination is concerned, she has scored 60% in the 1st paper, 61% in the 2nd paper, and 79%, 76% and 72% in the three practical papers which correspondent to the three theory papers of papers III, IV and V. I have perused the three answer-books in question, which were called for at the instance of the petitioner. The answer written therein along with the sketches drawn to illustrate the answers, create a very good impression about the academic side of the Petitioner. It does not on the face of it stand to reason as to why she will leave some of the questions unanswered, particularly in a situation where part answers are to be found in the answer-books. I would, therefore, prefer to leave aside the points of divergence, namely, the petitioner's allegation that somebody of the other on the respondents side has removed the middle portion of the three answer-books. Suffice it to say that much can be said on both sides, and the petitioners grievance on this score cannot outright be rejected. We say no more, and refrain from adjudicating the issue.

6. In the result, this writ petition is allowed. Respondent Nos. 2 to 4 are hereby directed to allow the petitioner to appear in Papers III, IV and V of M.Sc. Botany at the regular examination of M.Sc Botany at the regular examination of M.Sc.

Botany. It goes without saying that the petitioner's answer-books of the three papers at the earlier examination and under consideration, shall be cancelled and be substituted by fresh ones. The mark-sheet will incorporate the fresh marks which would be obtained by the petitioner by taking fresh examinations in the three papers as per the present order.