
(2018) 10 PAT CK 0066

In the Patna High Court

Case No : Letters Patent Appeal No.1288, 931, 932, 928, 929, 933, 934, 935, 930, 958, 960, 961, 1004, 1019, 1022, 1020, 1021, 1023, 1112, 1334, 1450, 1582 Of 2018 In Civil Writ Jurisdiction Case No.13083, 12048, 12186, 12127, 12185, 12526, 12515, 12112, 12579, ,

Arpana Kumari @APPELLANT@Hash State of Bihar

Date of Decision : 31-10-2018

Acts Referred:

Bihar Universities Act, 1976 — Section 21(2)(d)

Citation : (2018) 10 PAT CK 0066

Hon'ble Judges : Mukesh R. Shah, CJ; Ashutosh Kumar, J

Bench : Division Bench

Advocate : Abdul Wadood, Lalit Kishore, Ashutosh Ranjan Pandey, P. K. Shahi, Arun Kumar, Rajendra Pd. Singh, Rajeev Kumar Singh, Vikas Ratan Bharti, Murari Prasad Sinha, Ashutosh Ranjan Pandey, Surendra Kumar, Dr. Kumar Amitesh Chandra

Final Decision : Disposed off

Judgement

Mukesh R. Shah, CJ.

1. As common questions of law and facts arise in all these Letters Patent Appeals, all these Letters Patent Appeals are decided and disposed of

together by this common order.

1.1. Feeling aggrieved and dissatisfied with the impugned judgments and orders passed by the learned Single Judge passed in Civil Writ Jurisdiction

Case Nos.13083 of 2018; 12048 of 2018; 12186 of 2018; 12127 of 2018; 12185 of 2018; 12515 of 2018; 12526 of 2018; 12112 of 2018; 12579 of 2018;

13167 of 2018; 12300 of 2018; 12840 of 2018; 13811 of 2018; 13766 of 2018; 10986 of 2018; 13929 of 2018; 13625 of 2018; 13594 of 2018; Â 2342 of

2018; 14065 of 2018; 19396 of 2018; and 20161 of 2018, the original writ petitioners-students as well as respective educational institutions have

preferred the present Letters Patent Appeals, the particulars of which are as under:-

Letters Patent Appeal No.1288 of 2018 In Civil Writ Jurisdiction Case No.13083 of 2018

1 .Arpana Kumari, D/o Vinod Prasad, Resident of Village- Shahbazpur, Fatehpur, Nepa, P.S. Tekhari, District-Gaya.

2 .Nitu Kumari, D/o Umesh Rajak, Resident of Village-Siyadih Mathia, P.O. Siyadih, P.S. Konch, District-Gaya.

3 .Tarnnum Parbn, D/o Md. Suleman Ansari, Village-Rupaspur, P.O. Salempur, P.S. Alipur, District-Gaya.

4 .Vandana Kumari, D/o Sri Ram Lagan Yadav, Resident of Mohalla-Titaiganj Tekari, P.O. Ketari, P.S. Tekari, District-Gaya.

5 .Mandvi Kumari, D/o Sri Nand Lal Vaidya, Resident of Village-Badauli, P.O. Poora, P.S. Tekari, District-Gaya.

Letters Patent Appeal No. 931 of 2018 In Civil Writ Jurisdiction Case No.12048 of 2018

Halivant Tiwary Womens Degree College, Hardiya, Narkatiyaganj, West Champaran through its Secretary Radheshyam Tiwari, aged about 52 years,

Â Son of Halivant Tiwari, Resident of Parishad Nagar, P.S.- Narkatiyaganj, District- West Champaran. Â

Letters Patent Appeal No. 932 of 2018 In Civil Writ Jurisdiction Case No.12186 of 2018

Bishwanath Roy Degree College, Nirpur, Patepur, Vaishali through its Secretary Vishwanath Prasad Ray, aged about 75 years, Son of Judagi Ray,

Resident of Village- Nirpur, P.S.- Patepur, District- Vaishali.

Letters Patent Appeal No. 928 of 2018 In Civil Writ Jurisdiction Case No.12127 of 2018

Meena Baskit Rai Degree College, Yadav Nagar, Basara, Rajapakar, Vaishali through its Secretary Vaskit Rai @ Baskit Rai, aged about 53 years,

Son of Jaykaran Rai, resident of Village- Bhathadasi, P.S.- Rajapakar, District-Vaishali.

Letters Patent Appeal No. 929 of 2018 In Civil Writ Jurisdiction Case No.12185 of 2018

Rameshwar Mahavir Evening Degree College, Harsiddhi, East Champaran through its Secretary Krishnarjun, aged about 53 years, Son of Awadhesh

Prasad Kushwaha, Resident of Village- Harsiddhi, P.S.- Harsiddhi, District- East Champaran.

Letters Patent Appeal No. 933 of 2018 In Civil Writ Jurisdiction Case No.12515 of 2018

Raghunath Jha Degree College, Sitamarhi through its Secretary Ajit Kumar Jha aged about 56 years, Son of Raghunath Jha, Resident of Amba Ojha

Tola, Amwa Kalan, Amua, P.S. - Piprahi, District - Sitamarhi.

Letters Patent Appeal No. 934 of 2018 In Civil Writ Jurisdiction Case No.12526 of 2018

Dr. K.K.P. Roy Y.K. Jha College, Hasanpur, Mahnar (Vaishali) through its Secretary Jugal Kishore Jha aged about 78 years, Son of Siddha Nath

Jha, Resident of Village- Hasapur Junaid, P.S.- Mahnar, District- Vaishali.

Letters Patent Appeal No. 935 of 2018 In Civil Writ Jurisdiction Case No.12112 of 2018

Nirmala Devi Ajay Maskara Womens Degree Evening College, Raxaul (East Champaran) through its Secretary Ajay Kumar Maskara, aged about 58

years, Son of Basudeo Prasad Maskara, Resident of 109, Post Office Road, Raxaul, East Champaran.

Letters Patent Appeal No. 930 of 2018 In Civil Writ Jurisdiction Case No.12579 of 2018

DhanrajÂ BhagatÂ DegreeÂ College,Â Mustafaganj,Â Meenapur,Â Muzaffarpur through its Secretary Ganesh Prasad, aged about 74 years, Son

of Nirsan Prasad, Resident of Village- Mustafaganj, P.S.- Meenapur, District- Muzaffarpur.

Letters Patent Appeal No. 958 of 2018 In Civil Writ Jurisdiction Case No.13167 of 2018

Ramvilas Singh Ramdayal Ray College, Saraypur Raghapur, Vaishali through its Secretary Sanjay Kumar, aged about 64 years, Son of Ram Dayal

Ray, Resident of Village- Makkanpur, Jandaha, P.S.- Mahnar, District- Vaishali.

Letters Patent Appeal No. 960 of 2018 In Civil Writ Jurisdiction Case No.12300 of 2018

Nitesh Kumar Smarak College, Andhrawar Chowk, Paharpur Toi, Sahdev Bujurg (Vaishali) through its Secretary Dr. Rajeshwar Patel, aged about 64

years, Son of late Ram Lakhan Singh, Resident of Village- Ghazipur Garahi, P.S.- Vaishali, District- Vaishali.

Letters Patent Appeal No. 961 of 2018 In Civil Writ Jurisdiction Case No.12840 of 2018

Ram Lagan Rai Degree College, Rajapakar, Vaishali through its Secretary Ram Lagan Rai @ Ram Lagan Ray, aged about 61 years, Son of

Ramchandra Ray, Resident of Village- Rajapakar, P.S.- Rajapakar, District- Vaishali.

Letters Patent Appeal No. 1004 of 2018 In Civil Writ Jurisdiction Case No.13811 of 2018

Santosh Kumar Pathak, aged about 39 years, S/o Late Rudra Deo Pathak Principal of Akshlal Singh Asharfi Devi Degree College, Hansi Kewal,

Bhagwanpur, P.S. Bhagwan, District - Vaishali at Hajipur.

Letters Patent Appeal No. 1022 of 2018 In Civil Writ Jurisdiction Case No.13766 of 2018

Biyoglal Chaudhary Degree College, Jandaha, Vaishali through its Secretary Ram Babu Chaudhary, aged about 60 years, son of Biyoglal Chaudhary,

Resident of Village- Jandaha, P.S. Jandaha, District Vaishali.

Letters Patent Appeal No. 1019 of 2018 In Civil Writ Jurisdiction Case No.10986 of 2017

Motihari Degree Evening College. Motihari (East Chamaparan) through its Secretary Harishchandra Singh, aged about 54 years, son of late Yamuna

Singh, resident of Village- Sarean, P.S.- Govindganj, District East Champaran.

Letters Patent Appeal No. 1020 of 2018 In Civil Writ Jurisdiction Case No.13929 of 2018

Baba Bhagwat Rai Degree College, Telhua, Nautan, West Champaran through its Secretary Vibhuti Narayan Rai, aged about 52 years, son of late

Rajdeo Rai, resident of Village- Telhua, P.S. Nautan, District- West Champaran.

Letters Patent Appeal No. 1021 of 2018 In Civil Writ Jurisdiction Case No.13625 of 2018

S. K. Yadav Degree College, Tejpur, Patkhauliya, Kesariya (East Champaran) through its Secretary Bipul Kumar Ray @ Vipul Kumar Ray, aged

about 48 years, son of Brahmdev Narayan Ray, resident of Village- Tajpur, Patkhauliya, P.S.- Kesariya (East

Champaran).

Letters Patent Appeal No. 1023 of 2018 In Civil Writ Jurisdiction Case No.13594 of 2018

Â Mahesh Prasad Singh Snatak Mahavidyalay, Raghunathpur, Jagdishpur, Bela Â Muzaffarpur through its Prof. In-Charge Vikas Kumar, aged about

51 years, Â son of Hira Lal Prasad, Nai Bazar, Ward No. 44, P.S. Muzaffarpur, District Â Muzaffarpur.Â

Â Letters Patent Appeal No. 1112 of 2018Â InÂ Civil Writ Jurisdiction Case No.2342 of 2018

Â Prof. Shailendra Kumar Sinha Son of Late Parmanand Sinha, Resident of Â Mohalla- Ashok Nagar, Police Station- Kankarbagh, District and Town

Patna, Â atÂ presentÂ workingÂ asÂ Professor-in-Charge,Â FirozÂ GandhiÂ College, Karbigahiya, Patna- 800001.

Â Letters Patent Appeal No. 1334 of 2018 InÂ Civil Writ Jurisdiction Case No.14065 of 2018

1. SumatiÂ Kumari,Â D/oÂ MahipalÂ Singh, Resident of Village- Â Pachmahala Bind Toli, P.O.- Raily, P.S. N.T.P.C. Barh, District- Â Patna.Â

2.Â Juli Kumari, D/o Mishri Paswan, Resident of Village- Jadopur, Â P.O.- Gawasha Shekhpura, P.S.- Pandarak, District- Patna.

3. Laxmi Kumari, D/o Parshuram Singh, Resident of Village + Â P.O.- Rana Bigha, P.S.- Barh, District- Patna.

4. SonyÂ Kumari, D/oÂ MaheshÂ Singh, Resident ofÂ Village- Â Laxmipur, P.O.- Raily, P.S. N.T.P.C. Barh, District- Patna.

Letters Patent Appeal No. 1450 of 2018Â InÂ Civil Writ Jurisdiction Case No.19396 of 2018

1.Â RamÂ Lakhan SinghÂ YadavÂ College,Â Anisabad,Â Patna-Â 800002, Â through its Prof.-in-charge Sri Bhuneshwar Prasad Yadav.

2.Â Bhuneshwar Prasad Yadav, Son of Late Kripali Prasad Yadav, Â Resident of at- Makhdumpur, P.O. & P.S.- Sheikhpura, District-

Â Sheikhpura, at present posted as Prof.-in-charge Ram Lakhan Singh Yadav College, Anisabad, Patna- 800002.

Letters Patent Appeal No. 1582 of 2018 In Civil Writ Jurisdiction Case No.20161 of 2018

1. Patel Trimurti Sandhya Mahavidyalay, Ismailpur Bangra Road Patna through its Secretary Surendra Singh, son of Ram Sevak Singh, resident of

F/139, P.C. Colony, Kankarbag, Police Station- Kankarbag, District Patna.

2. Surendra Singh, son of Ram Sevak Singh, resident of F/139, P.C. Colony, Kankarbag, Police Station â?" Kankarbag, District Patna.

2. That the original writ petitioners approached this Court by way of aforesaid writ petitions directing the concerned respective Universities to accept

the examination forms and fees of the petitioners for B.A./B.Sc. Part III examination for the academic session 2017-18 and/or other examinations. It

is not in dispute that the applications submitted by the concerned educational institutions to the State Government for its approval of affiliation under

Section 21(2) (d) of the Bihar Universities Act (hereinafter referred to as 'the Act') were pending consideration for the academic session 2017-

18. Therefore, the Universities/ State Government refused to accept the examination forms and fees and therefore, the concerned institutions and/or

the concerned students approached this Court for the aforesaid reliefs.

2.1. It was the case on behalf of the concerned institutions as well as the original writ petitioners-students that as the concerned University granted the

affiliation and recommended to the State Government for its approval under Section 21(2) (d) of the Act and there was delay on the part of the State

Government in not taking final decision which was required to be taken under Section 21(2) (d) of the Act, the students may not be made to suffer for

the lapses and negligence on the part of the State Government. By the separate impugned judgments and orders and for the reasons stated in the

detailed judgment and order in the case of Ram Pramod Thakur Vs. State of Bihar and others in Civil Writ Jurisdiction Case No.4660 of 2017, the

learned Single Judge has dismissed the respective writ petitions against which the present Letters Patent Appeals are preferred.

3. That when the present Letters Patent Appeals were heard yesterday it was pointed out that the State Government has asked for the details with

respect to the institutions which applications were pending for approval under Section 21(2) (d) of the Act. It is reported that in many cases of the

institutions, the applications for approval under Section 21(2) (d) of the Act are pending and in some cases only the applications for approval have

been rejected.

3.1. It is admitted by learned counsel appearing on behalf of the respective writ petitioners that the applications by the concerned institutions in which

the students have studied are pending for approval with the State Government and as on today there is no approval of affiliation by the State

Government as required under Section 21(2) (d) of the Act for the academic

session 2017-18.

3.2. Therefore, there is a broad consensus between the learned counsel appearing on behalf of the respective parties, including the learned counsel appearing on behalf of the respective institutions, respective petitioners-students as well as the learned Advocate General appearing on behalf of the State and the learned counsel appearing on behalf of the respective Universities that as number of students are likely to be affected in the State which are thousands in number and to protect their interest, the State Government/ concerned University be directed to accept the forms and fees of the respective students of the concerned institutions for the academic year 2017-18 subject to outcome of the applications pending with the State Government for approval under Section 21(2) (d) of the Act and that the concerned students shall not claim any equity by permitting them to appear in the examination and that their acceptance of forms and fees and permitting them to appear in the ensuing examination for the academic year 2017-18 shall be subject to ultimate outcome of the applications for approval pending with the State Government and the State Government may be directed to finally decide and dispose of the applications for approval under Section 21(2) (d) of the Act at the earliest.

3.3. Learned counsel appearing on behalf of the original writ petitioners have also requested to the above observations that in case, the concerned institutions in which students have studied are granted approval by the State Government for the academic year 2017-18, in that case results be declared. It is agreed that in case, the State Government does not grant the approval in case of particular institution under Section 21(2) (d) of the Act, in that case, the results of such institutions may not be declared. However, liberty is reserved in favour of the concerned institutions to challenge the decision of refusal of the approval which may be directed to be considered in accordance with law and on its own merit.

4. Having heard learned counsel appearing for the respective parties and having given serious thought to the problem which has arisen and the future of the number of the students which are thousands in number are at stake and thousands of students are likely to be affected, as one time measure and in the peculiar facts and circumstances, we are of the opinion that the suggestion seems to be reasonable. It is true that the concerned institutions

ought not to have admitted the students without any approval of the State Government as required under Section 21(2) (d) of the Act and merely on the basis of the affiliation granted by the University and without waiting for the approval of the State Government as per Section 21(2)(d) of the Act.

Even the University also ought not to have supported such institutions. However, the fact remains that the concerned institutions are running since long

and they are granted approval by the State Government periodically. The fact remains that for the academic year 2017-18, the applications of the

concerned institutions through the recommendation of the concerned University for approval under Section 21(2) (d) of the Act for the academic year

2017-18 are still pending with the State Government. In most of the cases, the State Government has yet to take a final call/decision of the approval to

be granted to the concerned institution under Section 21(2)(d) of the Act.

4.1. Therefore, in the peculiar facts and circumstances of the case and the future of the thousands of students are at stake and the broad consensus

between the learned counsel appearing on behalf of the respective parties recorded hereinabove, more particularly, learned counsel appearing on

behalf of the concerned students and the respective institutions-writ petitioners, the present Letters Patent Appeals are disposed of in terms of the

following:-

(i) That as agreed, the State Government/concerned Universities to accept the examination forms and fees of the concerned students of the

respective institutions for the academic year 2017-18 pending decision by the State Government with respect to the concerned institutions in which the

students have studied under Section 21(2) (d) of the Act and they may be permitted to appear in the ensuing examination for the academic year 2017-

18. However, the concerned students shall not claim any equity solely on the basis of acceptance of their examination forms and fees and permitting

them to appear in the examination.

(ii) That their acceptance of examination forms and fees and permitting them to appear in the ensuing examination for the academic year 2017-18

shall be subject to ultimate outcome/decision of the State Government on the application pending for approval of affiliation with respect to the

concerned institutions under Section 21(2) (d) of the Act. In case, the State Government grants approval of affiliation of the concerned institution for

the academic year 2017-18, the result of the students of those institutions be declared. As agreed, in case, with respect to any of the institutions, the approval of affiliation is not granted by the State Government under Section 21(2) (d) of the Act for the academic year 2017-18, in that case, the result of those students of those institutions may not be declared. However, it will be open for the concerned institutions to challenge the same before the appropriate Court/Forum, in case they are aggrieved by any decision of the State Government not granting the approval for the academic year 2017-18.

(iii) That the State Government is directed to finally decide the applications of the concerned institutions for approval for the academic year 2017-18 under Section 21(2) (d) of the Act at the earliest and within a period of six weeks from today and intimate the outcome of the same to the concerned institution. The State Government to take final decision in accordance with law and on its own merit and pass speaking order.

(iv) That the aforesaid order is passed in the peculiar facts and circumstances narrated hereinabove as it is reported that the applications of the concerned institutions submitted through the concerned Universities for approval under Section 21(2) (d) of the Act is pending with the State Government and the present order be not cited as a precedent in future.

5. With the aforesaid directions, the present Letters Patent Appeals stand disposed of and the impugned judgments and orders passed by the learned Single Judge in respective writ petitions are modified to the aforesaid extent.

5.1. Before parting with the present order, we may caution the concerned institutions that in future they may not admit the students in the respective institutions without any approval by the State Government under Section 21(2) (d) of the Act and solely on the basis of the affiliation granted by the University and solely on the ground that the University has recommended to the State Government for approval. It is also further observed and directed that the State Government shall decide and dispose of the applications for approval of the concerned institutions under Section 21(2) (d) of the Act at the earliest and preferably before start of the academic year so that such an eventuality may not occur, provided the concerned institutions or the concerned University send the recommendation in the prescribed format well in time and much before the academic year starts.

6. With the above, the present Letters Patent Appeals stand disposed of. No costs. All the Interlocutory applications stand disposed of.