

(2021) 01 PAT CK 0045

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 20759 Of 2019

Dr. Ganesh Roy Degree College Sitamarhi

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 07-01-2021

Acts Referred:

Citation : (2021) 01 PAT CK 0045

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Ashhar Mustafa, Shashi Shekhar Tiwary, Nikhil Kumar Agrawal

Final Decision : Disposed Of

Judgement

1. Heard Mr. Ashhar Mustafa, learned Advocate for the petitioner/college, Mr. Shashi Shekhar Tiwary, learned counsel for the State and Mr. Nikhil

Kumar Agrawal, learned Advocate for the respondent/University.

2. This writ petition has been filed for setting-aside the communication contained in Memo No. 14/AF-11/2015 1232, dated 15.07.2019, issued by the

Deputy Secretary, Education Department, Govt. of Bihar, Patna, whereby, the Registrar of Baba Saheb Bhim Rao Ambedkar Bihar University (in

short the University) has been informed that the proposal sent to the government by the University for grant of affiliation to the petitioner/college has

been rejected on account of non-fulfillment of the requirements of ownership and possession of the land as prescribed in Statute No. 1098, dated

19.04.1986, and Letter No. 3196, dated 14.12.2017, issued by the Secretariat of the Honâ??ble Governor.

3. A further request has been made for directing the extension of affiliation of the petitioner/college from Sessions 2012â??2013 to 2018â??2019 and

for Session 2019â" 2020 onwards in accordance with the proposals sent by the respondent/University to the Education Department of the government.

4. Without referring to the details adverted to in the present petition, the controversy and the reason for the government to reject the recommendation of affiliation of the petitioner/college is that it does not have the requisite area of land as required under the Statute for running a Degree college.

5. Mr. Mustafa, learned Advocate for the petitioner/college has drawn the attention of this Court to the fact that initially, with the efforts of Dr.

Ganesh Roy, an academician of the area, a college was started under the name of â"Choudhary Charan Ganesh Roy College, Sitamarhiâ". He

being the founder and the Secretary of the Managing Committee of the college, donated land to the college. The college, after being established in the

year 1989â"1990 was administered properly till 1997. Thereafter, on the rejection of the recommendation of the Bihar Intermediate Education

Council by the government, the affiliation of the college with the University was not extended. After a lapse of about 4 to 5 years, the Managing

Committee of the college unanimously resolved to change the name of the earlier entity, viz., â"Choudhary Charan Ganesh Roy College,

Sitamarhiâ", as â"Dr. Ganesh Roy Degree College, Sitamarhiâ". It was also resolved that with the change of the name of the college, all the

properties of the erstwhile Choudhary Charan Ganesh Roy College, Sitamarhi would vest in Dr. Ganesh Roy Degree College, Sitamarhi.

6. It has also been brought to the notice of this Court that in the inspection, which was conducted for grant of permanent affiliation, it was found that

the college in question had all the infrastructure and wherewithals for being recommended for permanent affiliation.

7. The inspection report was approved by the Affiliation Committee as well as by the Academic Council and Syndicate of the University. However,

such acceptance of the inspection report and the recommendation of the University never reached the government.

8. The petitioner/college, thereafter, approached this Court for the needful vide C.W.J.C. No. 9318 of 2012. In the aforesaid writ petition, a direction

was issued to the University to send the approval of the Senate for grant of permanent affiliation to the State Government within a period of two

weeks and the State Government was also, in turn, directed to take a decision on such recommendation within a further period of two months

thereafter.

9. On such recommendation having been forwarded to the government, affiliation to the college was granted but only for the Session 2011â"2012.

Thereafter, again, a new committee was constituted by the University for the inspection of the college, which, again, recommended for extension of

affiliation for Sessions 2017â"2018 onwards. This inspection report also was approved by the Academic Council and the Syndicate and such approval

was sent to the government for the needful.

10. It was then, it has been argued, that the government took the plea that the Managing Committee of the erstwhile college may have taken a

resolution for vesting the land of the college in the name of new college, viz., â" Dr. Ganesh Roy Degree College, Sitamarhiâ", but such resolution

was not converted into reality as in the revenue records, the new college is not shown to possess the lands which got vested in it after the change in

the name of the college.

11. Learned counsel for the petitioner has submitted that for all practical purposes, except for the change in the name of the college, everything

remains the same. The new college has the same Managing Committee and in view of the specific resolution of the Managing Committee of change

in the name of the college and consequent vesting of the entire property belonging to that college to the present college, the objection taken by the

government is not desirable.

12. In support of the aforesaid contention, learned counsel for the petitioner/ college has further submitted that at one point of time, the government did

not object to such vesting of land in the college and granted affiliation for a particular session. The government, it has been urged, therefore, was not

required to take this plea now, when everything appears to have settled.

13. As opposed to the aforesaid contention, the response of the State Government is that the proposal of the University and the documents enclosed

thereto, on being examined by the Education Department, was found to be deficient. The documents relating to land did not show that it was in the

name of the petitioner/college. The State Government, therefore, vide a communication dated 28.12.2018 asked the University to explain the aforesaid

circumstance.

14. In response to the aforesaid communication, a fresh inspection report was sent to the government, which indicated that the land said to belong to

the college is in the name of Chaudhary Charan Ganesh Roy College, Sitamarhi and not in the name of the petitioner/college.

15. In view of the Statute regarding affiliation, if the requisite of land is not owned and possessed by the petitioner/college, the State Government had no other option but to reject the recommendation of affiliation.

16. The resolution of the Managing Committee of the erstwhile college was not translated into reality even over a period of eight years and the land

could not be recorded in the name of the petitioner/college in the revenue records. Precisely for this reason, it has been stated on behalf of the State

that the request of the University and of the petitioner/college has been rejected.

17. Learned counsel for the petitioner/college has submitted that this is a rather technical objection, put up only for the purposes of defeating the

claims of the college, especially in view of the fact that such transfer of land was accepted by the State Government in granting affiliation to the

college for a particular session.

18. In any view of the matter, the documents furnished to the State Government do not depict that the land which belonged to Chaudhary Charan

Ganesh Roy College, Sitamarhi has changed and now is recorded in the name of the petitioner/college, viz., Dr. Ganesh Roy Degree College,

Sitamarhi. Thus, the requirement under the Statute governing the affiliation of colleges is not fulfilled and, therefore, prima facie, no objection could be

raised on the decision of the government.

19. However, from the inspection report, which was placed before the University and which was communicated to the State Government, it is very

clear that the Committee recommended for extension of affiliation from Sessions 2012-2013 to 2018-19 and permanent affiliation from Session

2019-2020, provided the requirement under the Statute of the land belonging to the petitioner/college was fulfilled.

20. This, in the opinion of this Court, is a recommendation, which cannot be faulted with.

21. The counsel for the State also submits that the State would re-visit the recommendation of the University, provided the land which is said to belong

to the petitioner/college stands recorded in the revenue records in the name of the petitioner/college.

22. This Court, therefore, directs that in the event of the land belonging to the petitioner/college being mutated in the name of the petitioner/college, the government shall re-visit such recommendation and take a decision forthwith and communicate the same to the University as also to the petitioner/college. It is expected that no time would be lost in reviewing the decision, if necessary changes are made in the land records, as any delay on the part of the government would disturb the schedule of the session which would be disadvantageous to the students.

23. Needless to state that if this requirement is fulfilled, the State Government would look at the other requirements also and if the petitioner/college fulfills all other requirements, then necessary decision shall be taken in accordance with law.

24. It is also expected that the revenue authorities would respond to the request of the petitioner/college in right earnest in mutating the land in question in the name of the petitioner/college.

25. With the aforesaid observation/direction, the writ petition stands disposed off.