

(2012) 04 PAT CK 0025
In the Patna High Court
Case No : CWJC No. 4588 of 2012

Governing Body of Bindeshwari Dubey Mahavidyalaya and Another APPELLANT

Vs

Veer Kunwar Singh University and Another RESPONDENT

Date of Decision : 05-04-2012

Acts Referred:

Bihar State Universities Act, 1976 — Section 60, 60(4)

Citation : (2012) 3 PLJR 113

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Advocate : Mukesh Kumar Singh, for the Appellant; Shashi Bhushan Kr., for the Respondent

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned Counsel for the petitioners and Veer Kunwar Singh University (hereinafter referred to as "the University"). The petitioner 1 is stated to be the Governing Body of Bindeshwari Dubey Mahavidyalaya, Bihiyan, Kateya Road, District-Bhojpur at Arrah (hereinafter referred to as "the College"). It is aggrieved by the order dated 14.2.2012 issued by the University u/s 60(4) of the Bihar University Act, 1976 (hereinafter referred to as the Act") constituting an ad hoc Governing Body.

2. Learned Counsel for the petitioners submits that the issue of recognition is pending before the State Government and the College is not affiliated to the University. The basic premise for applicability of Section 60 of the Act empowering the University to constitute an ad hoc Governing Body or cause any interference in the constitution of the Governing Body is therefore wanting. The impugned order is without jurisdiction.

3. Learned Counsel for the University submits that the institution has deemed affiliation and therefore the University has the power to constitute an ad hoc

Governing Body pending constitution of a regular Governing Body. No statutory provision for deemed affiliation under the Act or the statute framed thereunder has been demonstrated.

4. The pleadings in para 5 of the writ application are that the issue of recognition and affiliation is pending before the State Government and the University. If it be so, the institution has no locus under the Act and it is difficult to understand if what the petitioners contend is correct, in what manner and by what authority the university has been permitting the students of the College to appear in, the examinations conducted by it as mentioned in para 6 of the application.

5. Section 2(C) of the Act defining affiliated college reads as follows:-

2(C) "Affiliated College" means educational institution having received privileges of the University according to the provisions of this Act and University statutes relating thereto.

6. Section 60 of the Act deals with the constitution of a Governing Body. Section 60(1) reads as follows:-

There shall be a Governing Body for the management and administration of each affiliated college other than the college owned and managed by the State Government or College established and administered by Minority Committee on the ground of language or religion for affiliated Technical or Medical College.

7. Sub-clause (4) provides for constitution of Ad hoc Committee, by the Vice-Chancellor for the management of the college so long the Governing Body is not constituted. It is not the case of the petitioners that it is a College owned and managed by the State Government or Minority Community or an affiliated Technical or Medical College.

8. The meaning of the words in Section 2(C) "having received privileges of the University" has to be found in Statute 32 dealing with Governing Body. It provides for constitution of a Governing Body of every admitted college which is none other than a recognised or affiliated college. Every provisions of the Statute with regard to Governing Body is noticed to begin with the pre-condition of being an admitted college.

9. If the institution is not an admitted college, there being no statutory sanction for a deemed affiliation the order dated 14.2.2012 is held to be without jurisdiction.

10. But in that event if a finding is being returned that the institution is unaffiliated and not admitted under the Act and the Statute, the effect has to permeate and percolate through out. The institution cannot claim that being an un admitted and unaffiliated the University cannot interfere with its managing body and simultaneously have a privilege of its students attending the examination conducted by the University. No student of the petitioner institution can be permitted to participate in any examination conducted by the University

unless and until the institution is granted the status of an admitted college leading to grant of affiliation. The order dated 14.2.2012 is set aside with all attendant consequences as discussed in the order.

11. Notwithstanding the present order if the institution has applied for grant of recognition/affiliation or applies, that issue has no relevance to the present discussion and it has to be considered on its own merit in accordance with law when consequences shall necessarily have to prospective in nature.

12. Learned Counsel for the petitioners submits that the University has raised no objection to the admission of the students of the institution in the examinations and the Court may therefore not suo motu decide that issue. The duty of the Court is to bring finality to litigation when issues come to its attention based on the materials and question that emanates from the pleadings and not to leave issues in a flux with ambiguity. The writ application stands allowed but only to the extent indicated.