

(2006) 07 PAT CK 0044
In the Patna High Court
Case No : C.W.J.C. No. 2401 of 1999

Latiffur Rahman Beg and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 25-07-2006

Acts Referred:

Bihar Intermediate Education Council (Establishment of College and Conduct of Examinations) Rules, 1994 — Rule 7(4)

Citation : (2006) 3 PLJR 575

Hon'ble Judges : Ramesh Kumar Datta, J

Bench : Single Bench

Advocate : Ram Balak Mahto, for the Appellant; S.A. Narain and J.C. to S.C. 17, for the Respondent

Final Decision : Dismissed

Judgement

Ramesh Kumar Datta, J.—Heard Mr. Ram Balak Mahto, learned Senior Counsel appearing for the petitioners. Mr. Shashi Anugrah Narain, learned Senior counsel appearing for the Intermediate Education Council and the learned J.C. to S.C. No. 17 for the State.

2. The petitioners have case to this Court originally for a direction upon the respondents to recognise/effilstate to the petitioners College which fulfills all criteria to be recognised and also for further consequential reliefs. During the pendency of this writ application an order dated 12.4.2005 (Anneexure-13) was passed by the Intermediate Education Council by which the permission to enroll students in Science faculty which had been granted earlier for a limited period was withdrawn by the council with respect to the petitioners College. By Interlocutory Application No. 1831 of 2006 the said order was challenged and learned Counsel for the petitioners has confined his submission only with respect to the quashing of the said Annexure-13 as illegal and invalid.

3. The petitioners' College was established in 1984 and by Memo NO. 790/A dated 13.1.1987 it was accorded permission for establishment of Arts Faculty

only. Subsequently at its meeting dated 26.11.1993 the Council resolved that the College fulfills the criteria for its recognition in Science and Art faculty and recommended the same for the purpose of prior approval of the respondent State Government in terms of the Act before the permanent recognition could be granted to the College. Subsequently it appears that the State Government had turned down the recommendation of the Council with a note that the college in question does not fulfil the conditions prescribed for recognition as per 1994 rules which was communicated by letter No. 1683 dated 31.12.1998.

4. Learned Counsel for the petitioners has assailed the order dated 12.4.2005 on the ground that it is in fact contrary to the Inspection report filed by an Inspection team constituted by the Council. It is submitted on the basis of Annexure -14, which is the relevant part of the said inspection report, that the petitioner college had been placed in the column of such colleges which fulfil all the conditions for recognition. The said report was submitted on 2.7.2004 and, therefore, learned Counsel for the petitioners submitted that without there being any fresh inspection and further material coming to the knowledge of the Council there would be no justification for passing of the impugned order dated 12.4.2005. Learned Counsel further submitted that by letter dated 18.2.2005 (Annexure-11) the Council had demanded a sum of Rs. 75,000/-towards security deposit and the same had been deposited by the College but without any fresh ground the impugned order was passed on 12.4.2005. Further submission of the learned Counsel for the petitioners is that on earlier occasion permission to establish had been granted to the college and there were sufficient number of students on the basis of which recommendation had been made to the State Government for recognition, and, therefore, there is no justification for withdrawal of permission when the number of students had got reduced during the long period for the sole reason that recognition had not been given and the same was extended on a temporary basis from year to year. It is submitted that for the said reason Council is not justified in directing the College not to enroll the students in Science faculty when the requirement of 128 students for each faculty is only there for permanent recognition and not for running College without such recognition.

5. In reply learned Counsel for the Intermediate Council has submitted that there is a back ground in which action has been taken by the Intermediate Council in respect of the present College and many other similarly situated colleges in the State. In this connection learned Counsel referred to various averments made in the counter affidavit from which it appears that in an earlier writ petition being C.W.J.C.No. 10953 of 1995 this Court had directed the Council to institute an enquiry about colleges and submit its report within six months. Thereafter an Enquiry Committee was constituted by the Council by Memo No. 1241 dated 15.2.2003. Subsequently a P.I.L. being C.W.J.C. No. 5511 of 2003 was also filed for a direction to the Council not to grant recognition to the College which are not fulfilling the condition prescribed for recognition and also for not allowing the students of unrecognized Colleges to appear in the examination. The said P.I.L.

was disposed of by order dated 30.6.03 (Annexure-B) in which while disposing of the application this Court directed the Council to take an appropriate decision with regard to unrecognised colleges within six months and further that the council will not permit the students beyond the sanctioned strength of the college to appear in the subsequent examinations to be conducted from 2004 onwards. Pursuant to the aforesaid direction of this Court an Inspection Team was constituted by the Council vide Memo No. 533 dated 5.2.2003. The said Inspection Team after inspecting the petitioners' college found that the condition of the laboratory and library is very bad and the intake of students in Science faculty is negligible. The inspection report is contained in Annexure-F to the reply filed by the Council to the Interlocutory application.

6. From column 6 of the said Inspection Report it appears that library of the College consists of 300 books only having a Value of Ra. 90.890 approximately. It is pointed out with reference to Rule 7(4a) of the Bihar Intermediate education Council (Establishment of College and Conduct of Examinations) Rules, 1994, that the requirement is that the library must have books and journals of a total value of Rs. 1/- lac since it should not be less than 50000 for each faculty and thus, the library was having insufficient books to the extent of Rs. 9000/- in terms of the rules. With respect to the laboratory it was found by the team that the total value of equipments and Instruments in the laboratory was about Rs. 1.20.569/- only. With respect to the students the finding was that in Science faculty there were 33 and in Arts 98 during the year 2000. 31 in Science and 85 in Arts during the year 2001, and 39 in science and 93 in Art during the year 2002. As per Rule 7(4)(n) it is provided that there should not be less than 128 students admitted to the first year Class in the faculty of Arts and Science and 32 for Commerce.

7. In view of the aforesaid facts contained in the report of the Inspection Team learned Counsel for the Intermediate Education Council submitted that the College in question has clearly failed to comply with the conditions prescribed for recognition under the rules. In fact, it was woefully short of the requirements even after 22 years since its foundation despite several reminders given by the Council detailed in the impugned order itself. For the said reasons it is submitted that the Counsel has rightly withdrawn the permission for enrolling the students in the Science faculty.

8. On a consideration of the submissions made by the parties I am of the view that there is no force in the submission of the learned Counsel for the petitioners and from the data contained in the Inspection Report of the college, the facts of which remain unchallenged because the same is signed by the Professor Incharge as well as the secretary the petitioners' College, the College in question has totally failed to comply with the conditions of the rules both regarding library as well in the number of students required as minimum for Science faculty. In such a situation to Permit a college to continue indefinitely without any visible improvement tantamounts to putting at risk the career of students. Since even

after 23 years there has been no sufficient increase in the enrollment of students in the Science faculty of this college and earlier also approval for recognition had been refused by the Government on the ground of non-fulfilment of criteria in 1998 itself, it appears that the Council has rightly taken a decision not to permit the college to enroll students in the science faculty of the College.

9. Learned Counsel for the petitioners has further relied upon a letter dated 22.12.2006 by which the Council has directed the College to give details regarding fulfilment of necessary criteria laid down in rules regarding infrastructure so that an inspection can be made of the College. Learned Counsel submits that on the one hand there is prohibition by Council from enrolling students in Science faculty whereas on the other hand the Council is again asking for such details. So far as this Letter (Annexure-16) is concerned it merely gives opportunity to the College in question to come up with criteria as provided in the rules so that it may be considered for recognition and it cannot be said that the said letter is in contradiction of the impugned order dated 12.4.2005, since the College is still continuing so far as the Arts faculty is concerned. However, the petitioner's college is free to pursue the matter with respect to the said letter with the competent authority. No benefit can be provided to the petitioner's College on the basis of the said letter unless and until it fulfills the criteria as per rules.

10. In the aforesaid facts and circumstances. I find no merit in the writ application and the same is accordingly dismissed. In the facts and circumstances of the case, there shall be no order as to costs.