

(1982) 12 PAT CK 0005
In the Patna High Court
Case No : C.W.J.C. No. 1137 of 1982

Pandit Bimal Kumar Ishwar and Others APPELLANT
Vs
State of Bihar and Others RESPONDENT

Date of Decision : 02-12-1982

Acts Referred:

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

Citation : (1985) 33 BLJR 404

Hon'ble Judges : Satyeshwar Roy, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Satyeshwar Roy, J.—By this application, the petitioners have prayed for quashing the order contained in Annexure 6 by which they have been informed that since their schools are not recognised Respondent No. 3, Bihar Sanskrit Sikchha Board, the students of their schools may appear at the examinations as private (swatantra) candidates through a recognised school.

2. The admitted facts are that although no affiliation to the schools was granted by the State Government in exercise of the power vested in it u/s 21(d) of the Bihar State Universities Act, 1976, the students of the petitioners schools were allowed to appear at the Madhma examination. However, the Vice Chancellor of Kameshwar Singh Darbhanga Sanskrit University by letter dated 1.2.80 informed the Deputy Director of Education that the Senate and the Syndicate had recommended for affiliation of the Schools for the Sessions 1978-79 and 1979-80. No order was passed by the State Government in this regard. Meanwhile, Bihar Sanskrit Siksha Board Ordinance 1981 was promulgated and thereafter Bihar Sanskrit Siksha Board Act 1982 (Act 31 of 1982) was enacted. The power of recognition of institutions imparting Sanskrit education up to Madhma Standard has been given to the Board with prior approval of the State government. The schools are not recognised school and, therefore, the students of the petitioners schools had no right to appear at the examinations as regular

students of the petitioners' schools. However, it was contended on behalf of the petitioner that since the affiliation to their schools was given by the Sanskrit University, the. Students of their schools have a right to appear as regular students.

3. learned Counsel appearing for the Board contended that in view of the fact that the State Government never accorded affiliation to the petitioners' schools under Act, the Sanskrit University had no jurisdiction to order for affiliation of the petitioners' schools and to allow the students of those schools to appear as regular students. In law, the contention of the learned Counsel appearing for the Board appears to be correct, By Annexure 2, the Sanskrit University sent recommendation to the State Government or according affiliation to the schools. The admitted case is that the State Government did not pass any order on Annexure-2. The result, therefore is that the State government, at no stage, approved the affiliation of the schools. That being the position, the petitioners cannot take the advantage of any omission made on the part of the Sanskrit University by allowing the students to appear at the examinations as regular students. Since the petitioners have failed to show that at any point of time the petitioners schools were affiliated in the manner provided under the Act or the aforesaid Ordinance, the petitioners cannot claim that their students are entitled to appear at the examinations conducted by the Board as regular students.

4. I do not find any merit in the application and the same is dismissed without costs. However, by order dated 13.4.82, the students of the petitioners. schools for the sessions 1980-81 were allowed to appear at the Madhma examinations conducted by the Board, that order was passed subject to the result of this case. Although I have dismissed the application, but since the students were allowed to appear at the examinations by order of this Court, the respondent No. 3 is directed to publish their results. However, this will not give any right to the students of the petitioners schools to appear at the examinations of the Board unless the petitioners' schools are recognised in terms of the provisions of Act 31 of 1982.