
(1999) 09 PAT CK 0113
In the Patna High Court
Case No : C.W.J.C. No. 5616 of 1998

Patna Educational Development Trust and others	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 30-09-1999

Acts Referred:

Citation : (1999) 3 PLJR 711

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Ram Balak Mahto and Shivendra Kishore, for the Appellant; S. Alamdar Hussain for the State, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—The 1st petitioner, Patna Educational Development Trust runs the Institute (2nd petitioner), known as "Patna Institute of Technology, Patna". They along with one Janardan Prasad Singh, have preferred this writ petition for direction on the Respondents to allot the students to the petitioners' Institute from amongst the successful candidates whose names were appearing in the list prepared in pursuance of Bihar Combined Entrance Competitive Examination, 1998 for the Academic Session 1998-99. It was prayed that if the Respondents fail to allot the students for the petitioners' Institute then to give liberty to the petitioners to hold entrance test and to admit students in the Academic Session 1998-99, in accordance with law, to such extent and such engineering courses, as approved by the All India Council of Technical Education, New Delhi (AICTE for short). Further prayer has been made for mandatory order that in case in subsequent sessions, the Respondents fail to include the name of petitioners' Institute in their advertisement and schedule of Institute for allotment of students from successful candidates of which list prepared in pursuance of Bihar Combined Entrance Competitive Examination conducted by the State then it will be open to the petitioners' Institute to hold entrance test and admit students to such extent against engineering courses, as has been approved by AICTE.

During the pendency of the writ petition, this Court vide interim order dated 2nd September '98 on hearing the parties, allowed the petitioners' Institute to admit students in the same manner as it did earlier in pursuance of Court's order for the Session 1998-99, since the State of Bihar refused to nominate the students for petitioners' institute.

2. In the aforesaid circumstances, the main prayer made in the writ petition has become in fructuous and the only question to be determined as to whether for future, a direction should be given, as prayed for in Clause (ii) of paragraph 1 to the writ petition.

3. The relevant facts and similar question in respect to the petitioners' Institute fell for consideration earlier before this Court. Initially, C.W.J.C. No. 122/96 was preferred by petitioners for similar relief for admission in the earlier session which was disposed of on 13th February '96 and L.P.A. No. 316/96 was preferred by the State of Bihar against the said judgment and order dated 13th February '96. Another C.W.J.C. No. 7710/96 was preferred by petitioners for similar relief in respect of subsequent session. Both the aforesaid L.P.A. 316/96 and C.W.J.C. No. 7710/96 were taken up by Division Bench of this Court. The Division Bench took into consideration the relevant facts that an Expert Committee was constituted by Respondent State to submit report for the purpose of decision relating to approval/recognition of the Institute. The report was submitted by Expert Committee which was forwarded by the State of Bihar to AICTE for their approval. The AICTE, vide letter dated 29th January '96 intimated the State that on receipt of such report, they (AICTE) have approved the Institute in question. Those facts were taken into consideration by the learned Single Judge, when C.W.J.C. No. 122/96 was decided. In the said case, the State of Bihar took similar plea that though the AICTE has granted approval of the Institute, in absence of report of Expert Committee, the State of Bihar was not in a position to allot students for admission in the Institute. The aforesaid stand was rejected by the Court as Expert Committee's report was forwarded by the State Govt. to AICTE and held that the State Government cannot deny the benefits to the Institute and allowed the writ petition. Such decision was upheld by the Division Bench vide its judgment dated 3rd January '97 and for the said reason, allowed the other writ petition, C.W.J.C. No. 7710/96, as AICTE's approval was still in effect for the session 1996-97. The Division Bench judgment was challenged by the State of Bihar before the Supreme Court in SLP (Civil) Nos. CC 7264-7265. The Supreme Court by its order dated 16th September '97, on hearing the parties, dismissed the special leave petitions aforesaid, both on limitation and on merit.

The apex court held, as follows:

.....Even otherwise, we do not find any merit in the special leave petitions. The special leave petitions are dismissed on the ground of delay as well as on merits.

4. When the question for admission for the Session 1998-99 again fell for consideration, the State of Bihar for different Engineering Colleges while held Bihar Combined Entrance Competitive Examination, 1998 and forwarded the list of successful students for their admission in various Engineering Colleges, no list was forwarded to the petitioners' Institute for admission. For the said reason, this is the third time, the petitioners' Institute had to move in the present writ petition for similar relief for admission of students in the Academic Session 1998-99.

5. In the aforesaid circumstances, this Court vide interim order dated 2nd September '98 permitted the petitioners' Institute to admit student after following the same procedure, as it did in the earlier years pursuant to order of this Court.

6. In the counter affidavit, the State of Bihar again took similar plea that it was not in a position to forward the list of students, till the Expert Committee's report is sent for approval of the Institute. However, such plea cannot be accepted in view of earlier decisions, where the State Government was the party, wherein such pleas were rejected and, particularly, when the AICTE has extended its approval for the session 1998-99 in respect of petitioners' Institute.

7. Accordingly, I direct and give liberty to the petitioners' Institute that for subsequent sessions (1999-2000), if the approval of AICTE in respect of petitioners' Institute continues and the Respondent State fail to include the name of petitioners' Institute in the forthcoming advertisements, as schedule Institute for allotment of students from the list of Bihar Combined Entrance Competitive Examination, in that case, it will be open to the petitioners' Institute to hold such entrance test and to admit students to such extent against such engineering courses, as has been approved by AICTE for such session, in accordance with law, on the basis of merit list. The writ petition stands disposed of with the aforesaid observations and directions.