
(1994) 03 PAT CK 0021

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4582 of 1993

Praveen Kumar Jha

APPELLANT

Vs

Patna University and Others

RESPONDENT

Date of Decision : 16-03-1994

Acts Referred:

Bihar Inter University Board Act, 1981 — Section 2

Citation : (1995) 1 BLJR 450 : (1994) 2 PLJR 228

Hon'ble Judges : Gurusharan Sharma, J;G.C. Bharuka, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—This writ application has been filed by the petitioner for issuance of a writ of mandamus directing the respondents Patna University and its authorities to publish the result of the petitioner of B.Com. (Hons.) examination.

2. The petitioner had undertaken the course of B.Com. (Hons.) Part I in 1988 by getting himself enrolled as a student in Vanijya Mahavidyalaya College of respondent which is one of the constituent colleges of Patna University. He appeared in Part I examination which had commenced on 8.11.1989. According to the petitioner though he passed in all the papers but in the subject Financial Accounts he could secure only 33 percent. Accordingly, he opted to appear for re-examination in the said subject in the next examination held on 20.1.1991 and secure 61 percent. Subsequently he appeared in B.Com. (Hons.) Part II and Part III examinations which commenced on 16.3.1991 and 12.5.1992 respectively. According to the petitioner though he has passed in all the subjects in all the three parts but still the respondents are not declaring his result which shows their arbitrariness and malafide.

3. Counter-affidavits have been filed on behalf of the respondents, wherein it has been stated that keeping in view the regulations framed by the Inter University

Board, the petitioner having not secured the minimum 45% marks in Honours subject of Accounts group in this Part I examination, he has been treated as failed in Part I examination, disentitling him to his results of B.Com. (Hons.) Part II and Part III.

4. Before dealing with the facts of the present case, it is necessary to notice that the Inter University Board established u/s 2 of the Bihar Inter University Board Act, 1981, in order to improve and maintain the standard of examinations in the Universities and bring about an uniformity in the Universities of the State in this regard, suggested framing of regulations for Bachelor Commerce (General/Honours) examinations. These were duly approved by the State Government and were communicated by the Chancellor to all the Universities for implementation as is evidence from a communication of the Governor's Secretariat dated 13.10.1988 (Annexure "A"). Clause 7.1 of the Regulations deals with the examination which leads as under:

Examination.--7.1--There shall be University examination at the end of the first, the second and the third years of study to be known respectively as the B.Com. (General/Honours) Part I, Part II and Part III examination. No student shall be admitted to the B.Com. (General) or B.Com. (Honours) Part II Class unless he has passed the B.Com. (General) or B.Com. (Honours) Part I examination and to the Part III Class, unless he has passed the Part II examination :

Provided that if a student fails in, or fails to appear at, nor more than two subjects at the B.Com. (General/Honours) Part I/II examination he shall be prompted to the next higher class but he shall not be eligible for admission to the B.Com. (General) or B.Com. (Honours) Part III Class unless he has passed the B.Com. (General) or B.Com. (Honours) Part I examination in the subject/subjects concerned.

Provided further that this facility for appearing in such carry over subject/subjects shall be available to a student at not more than three consecutive examinations.

5. From the reading of the aforesaid Clause of the Regulations it is quite clear that, a student cannot become eligible for admission to Part III of B.Com. course unless he has passed in Part I. The provisions regarding pass marks in B.Com. (Hons.) examinations have been provided under the various Sub-clauses of Clause 14 of the Regulations. For the present the relevant are Clauses 14.1 and 14.2 which are being quoted hereunder:

Pass Marks and Classes in B.Com. (Honours) Examination.

14.1 In order to pass the B.Com. (Honours) Part I or Part II or Part III examination a candidate must obtain not less than 45% of the total marks in the group of subjects for Honours study and 33% of the total marks in each of the other subjects of the examination :

Provided that if he has offered two language in Composition he must obtain at

least 15 marks in each language and 335 marks in the paper as a whole.

14.2 In order to pass the B.Com. (Honours) examination a candidate must have passed the B.Com. (Honours) Part I Part II and Part III examinations separately.

6. Under the aforesaid Regulations for passing either Part I or Part II or Part III examination a candidate has to obtain at least 45% of the total marks in the group of subjects for Honours study. Clause 14.2 further provides that in order to pass B.Com. (Honours) examination a candidate must have passed all the three parts separately.

7. It is not in dispute that in B.Com. (Honours) Part I examination, the group of Honours subject comprised of two papers, namely, (i) Financial Accounting and (ii) Auditing. It is also submitted that the petitioner in his examination of Part I had obtained 33% marks out of 100 in Financial Accounting and 48 out of 100 in Auditing, Thus securing in total 81 marks in this group of Honours papers which was less than 45% in total. Therefore, in view of Clause 14.1 of the Regulations noticed above, he cannot be said to have passed the Part I examination. As such in view of Clause 14.2 he cannot claim the declaration of his result of B.Com. (Honours) examination.

8. The plea of the petitioner that he having subsequently appeared and secured 61% in Financial Accounting is of no consequence. Because in view of the Regulations, he has to secure minimum 45% in aggregate in the group of subjects comprising of Financial Accounting and Auditing in the same examination. The marks obtained by him in one subject in one examination and those obtained in the second subject of the said group in another examination, cannot be clubbed together for meeting the requirement minimum 45% marks.

9. In view of the provisions of the Regulations, as discussed hereinbefore, the petitioner can be declared to be successful in the B.Com. (Honours) examination, only, if he secures minimum 45% marks in Honours group of subject comprising of Financial Accounting and Auditing by re-appearing in these subjects at the same examination.

10. For the foregoing reasons, I find it difficult to grant and relief to the petitioner in the present case and accordingly, this application is dismissed but without costs.

Gurusharan Sharma, J.

11. I agree.