

(2026) 02 SC CK 1787

In the Supreme Court Of India

Case No : Civil Appeal No.797, 798, 799 Of 2026 (Arising Out Of Special Leave Petition (Civil) No. 5431 Of 2026)(Arising Out Of Diary No.30148 Of 2022)

Priyanka Kumari And Ors

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 18-02-2026

Acts Referred:

Chhattisgarh Niji Kshetra Vishwavidhyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002 — Section 5, 6, 33, 34

Citation : (2026) 02 SC CK 1787

Hon'ble Judges : Rajesh Bindal, J;Vijay Bishnoi, J

Bench : Division Bench

Advocate : Navniti Prasad Singh, Abdul Wasih, Rizwan Ahmad, Abhishek Kumar, Shakeel Ahmed, Amir Kaleem, Himanshu Gupta, Mohd Shoeb Ansari, Gopal Jha, Jitesh Kumar, Umesh Kumar Yadav, Shireesha Sharma, Sawan Datta, Tilak Vij, Nimish Arjaria, Shreyash Bhardwaj, Samir Ali Khan, Pranjal Sharma, Kashif Irshad Khan

Final Decision : Allowed

Judgement

Rajesh Bindal, J

1. The appellants in Civil Appeal No. 797 of 2026 are aggrieved against the judgment dated 11.04.2019, passed by the High Court 'High Court of Judicature at Patna' in Letters Patent Appeal No. 671 of 2018. The High Court dismissed the appeal against the order of the Single Judge dated 22.02.2018 passed in Civil Writ Petition No. 6827 of 2016, thereby affirming the termination of services of the petitioners therein.

1.1 The appellants in Civil Appeal No. 798 and 799 of 2026 are before this Court, aggrieved against the dismissal of Letters Patent Appeal No. 567 of 2018 by the High Court vide order dated 01.11.2022. The High Court dismissed the aforesaid LPA relying upon earlier order dated 11.04.2019 passed in LPA No. 671 of 2018,

since both the matters involved same issue.

2. Briefly, the facts are that the appellants approached the High Court challenging their dismissal from the post of librarian on which they were appointed by the State of Bihar. It was on account of the fact that the degree obtained by them from the University of Technology and Science, Raipur, Chhattisgarh, "the University" was declared invalid as the Chhattisgarh Niji Kshetra Vishwavidyalaya Act, 2002 "the 2002 Act" under which the University was established, was later on declared to be ultra vires.

3. Briefly, the facts available on record are that the 2002 Act was enacted by the Chhattisgarh State Legislature providing for establishment of self-financing universities to promote higher education in the State. The University in question was granted recognition vide order dated

4. 02.2002 by the State of Chhattisgarh under the provisions of the 2002 Act. On 28.05.2004, a public notice was issued enlisting the names of the universities that have been established under the 2002 Act, wherein the name of the University in question is mentioned at Serial No. 23. After getting admission in the aforesaid University, the appellants passed out with a degree of Bachelor of Library Science (B.Lib) in the year 2004. Even the Central Government vide communication dated 26.01.2004 issued by the Ministry of Human Resources Development, Government of India, had recognized the courses conducted by the University.

4. A Writ Petition was filed in this Court by Professor Yash Pal, former Chairman of the University Grants Commission (UGC), challenging the competence of the Chhattisgarh State Legislature to enact the 2002 Act. Vide judgment dated 11.02.2005, 'Prof. Yashpal and Anr. v. State of Chhattisgarh and Ors., (2005) 5 SCC 420' the 2002 Act was declared to be ultra vires, by this Court.

4.1 In 2009, the State of Bihar issued an advertisement for recruitment to the post of librarians. On 22.05.2010, the appellants were selected as librarians and were working satisfactorily on the post. A Public Interest Litigation (PIL) 'Writ Petition No. CWJC No. 19959/2010' was filed before the High Court raising an issue that certain persons have been appointed as librarians on the basis of qualification obtained by pursuing the courses from the University, which was not a recognized institution. The writ petition was dismissed on 15.05.2014 as it lacked foundational facts. However, the State had taken action and as a result thereof, the services of the appellants were terminated vide order dated 22.08.2015. Challenging the same, writ petition 'CWJC No. 6827/2016' was filed before the High Court, which was dismissed on 22.08.2018. The order passed by the Single Judge was upheld in intra-court appeal 'LPA No. 671/2018' vide order dated 11.04.2019. Challenging the aforesaid order, the present appeal has been filed.

5. Mr. Navniti Prasad Singh, learned senior counsel for the appellants submitted that after the 2002 Act was enacted, the University was established. It was duly

recognized and even the education being imparted by it, was recognized by the Central Government. The appellants passed out in the year 2004. Writ Petition was filed before this Court, challenging legislative competence of the Chhattisgarh State Legislature to enact the 2002 Act. This Court vide judgment dated 11.02.2005 had struck down the 2002 Act. It is mentioned in the aforesaid judgment that the students who are studying in the University will have to be shifted to other recognized universities in the State, so that their career does not suffer. This clearly makes out a case that this Court was conscious of the fact that the management which had set up the University was not at fault, as it was established under the 2002 Act enacted by the State, which was later struck down by this Court. The students who were studying should not suffer. Taking analogy therefrom, even the students who had passed out earlier, even their degrees and certificates have to be protected.

5.1 Learned counsel has referred to a judgment of the Bombay High Court in Anil Bhimraj Purane Versus The Union of India and Others, Writ Petition No. 9039/2012 where identical issue was involved pertaining to the University in question and the relief was granted to the petitioner therein. He further referred to the judgment of this Court in Goan Real Estate and Construction Limited & Anr. v. Union of India & Ors., (2010) 3 S.C.R. 1160 in support of the argument that the earlier judgment in Professor Yash Pal's case (supra) has to be read on the principle of prospective overruling. Meaning thereby, the actions taken prior to the judgment of this Court declaring the 2002 Act to be ultra vires, have to be protected.

6. On the other hand, learned counsel for the State submitted that once the 2002 Act has been struck down, any certificates / diplomas or degrees awarded by the University will become unrecognized. On the declaration of the 2002 Act to be ultra vires on account of legislative incompetence, no relief can be granted to any of the students even if they had earlier passed out from the University. Principles of prospective overruling cannot be applied in the case in hand. When the appellants made applications for selection to the post of librarians in the year 2010, they very well knew about the fact that their degrees had been declared to be invalid as the 2002 Act under which the University was established and in which they studied, had been declared to be ultra vires. It is clearly evident from the judgment in Professor Yash Pal's case (supra), that protection was granted only to the student, who were still studying in the University and not to those who had already passed out. There is no merit in the present appeal. The same deserves to be dismissed.

7. Heard learned counsel for the parties and perused the paperbook.

8. The undisputed facts of the case in hand can be summed up briefly. The State of Chhattisgarh enacted Chhattisgarh Niji Kshetra Vishwavidyalaya Act, 2002. The University of Technology and Science, Raipur, was established under the aforesaid Act. It is also claimed that a public notice was issued on 28.05.2014 by the Chhattisgarh Niji Kshetra Vishwavidyalaya Regulatory Commission,

Government of Chhattisgarh, Education Department, detailing the list of universities established under the 2002 Act and the name of the University finds mention therein. The appellants passed out in the year 2004 from the University after obtaining Bachelor's degree in Library Sciences (B.Lib). It is also evident from a letter dated 26.01.2004, from the Government of India, Ministry of Human Resource Development that the Degrees/ Diplomas/ Certificates including pre-University Courses (equivalent to 10+2) awarded by the University were recognized for higher studies and employment.

9. Professor Yash Pal, former Chairman of UGC filed a writ petition before this Court on 04.12.2003 challenging the validity of the 2002 Act on the ground of legislative incompetence of the Chhattisgarh State. Vide judgment dated 11.02.2005, Sections 5 and 6 of the 2002 Act were declared ultra vires. As a consequence, all such universities ceased to exist.

10. In 2009, an advertisement was issued by the State of Bihar for selection to the post of librarians. The appellants were selected and appointed on 22.05.2010. A PIL was filed before the High Court raising an issue that some persons have been appointed as librarians on the basis of certificates received from an institution, which was not recognized. As the writ petition lacked foundational facts to show that the University was bogus, the same was dismissed on 15.05.2014. It was claimed by the counsel for the appellant that though the writ petition was dismissed but the State took action otherwise. The services of the appellants were terminated vide order dated 22.08.2015 in the light of directions issued by Joint Secretary, Education Department, Bihar vide letter dated 16.07.2015.

11. While dealing with the arguments raised by the learned counsel for the parties, it would be relevant to refer to the final findings recorded by this Court in the Professor Yash Pal's case (supra) in paragraphs 64 and 65 thereof. The same are extracted below:

"64. As a consequence of the discussion made and the findings recorded that the provisions of Sections 5 and 6 of the Act are ultra vires and the gazette notifications notifying the universities are liable to be quashed, all such universities shall cease to exist. Shri Amarendra Sharan, learned Additional Solicitor General has submitted that UGC had conducted an inquiry and it was found that most of the universities were non-existent, but the report was not placed before the Court as the complete exercise had not been done. Learned counsel for the universities have seriously disputed this fact and have submitted that the universities are functioning. We have not gone into this question as it is purely factual. In order to protect the interests of the students who may be actually studying in the institutions established by such private universities, it is directed that the State Government may take appropriate measures to have such institutions affiliated to the already existing State universities in Chhattisgarh. We are issuing this direction keeping in mind the interest of the students and also Sections 33 and 34 of the Act, which contemplate dissolution of the

sponsoring body and liquidation of a university whereunder responsibility has to be assumed by the State Government. It is, however, made clear that the benefit of affiliation of an institution shall be extended only if it fulfils the requisite norms and standards laid down for such purpose and not to every kind of institution. Regarding technical, medical or dental colleges, etc. affiliation may be accorded if they have been established after fulfilling the prescribed criteria laid down by All India Council of Technical Education, Medical Council of India, Dental Council of India or any other statutory authority and with their approval or sanction as prescribed by law.

65. In view of the discussions made above, Writ Petition (C) No. 19 of 2004 (Prof. Yashpal v. State of Chhattisgarh) and Writ Petition (C) No. 565 of 2003 [For directions passed earlier, see below] (Gopalji Agarwal v. Union of India) are allowed and provisions of Sections 5 and 6 of the Chhattisgarh Niji Kshetra Vishwavidhyalaya (Sthapana Aur Viniyaman) Adhiniyam, 2002 are declared to be ultra vires and are struck down. As a consequence of such declaration, all notifications issued by the State Government in the gazette in the purported exercise of power under Section 5 of the aforesaid Act notifying the universities (including Respondents 3 to 94) are quashed and such universities shall cease to exist. If any institutions have been established by such universities, steps may be taken for their affiliation to already existing State universities in accordance with the direction contained in para 64 above. Parties would be at liberty to approach the High Court if any dispute arises in implementation of this direction. All writ petitions, civil appeals and transferred cases filed by the private universities are dismissed."

12. A perusal of the aforesaid paragraphs shows that this Court had finally struck down the provisions of Sections 5 and 6 of the 2002 Act. However, in order to protect the interest of the students who may be studying in the institutions established by the private universities, the State Government was directed to take appropriate measures to get the institutions affiliated with the existing State universities. Meaning thereby, the career of the students who were still studying in the institutions set up by the University, the establishment of which had been set aside, in view of striking down of the 2002 Act, was protected.

13. The issue before this Court is regarding the students who had passed out prior to the filing of the writ petition in Professor Yash Pal's case (supra). Nothing has come on record to suggest that the University in which the appellants studied was non-existent. Meaning thereby, they must have studied and after passing the examination, had got their degrees.

14. It is also a fact evident from record that despite there being judgment in Professor Yash Pal's case (supra), which was in public domain, when the appellants applied for the post of librarian and were selected in the year 2010, their candidature was not rejected on the ground that the degree is from a university, established under the 2002 Act, which was struck down. Rather, they were appointed and continued working for a period of more than 5 years.

14. 1 It is also a fact evident from the record that the Writ Petition No.19559 of 2010 was filed in the High Court in the year 2010 only raising an issue that some of the private respondents in the aforesaid writ petition, had been appointed as librarians on the basis of certificates from a unrecognised institution. Meaning thereby, the issue was well within the knowledge of the State, immediately after the appointment of various candidates on the post of librarians. Even otherwise, the writ petition was finally dismissed by the High Court on 15.05.2014 as the same was lacking foundational facts to prima facie establish that the institution from which the private respondents in the aforesaid petition had passed out, was a bogus institution. Still, as claimed by the counsel by the appellant, the State had taken action and terminated the services of the appellants.

15. Firstly, we may refer to the Division Bench judgment of the High Court of Bombay in Anil Bhimraj Purane's case (supra) on which reliance has been placed by the learned counsel for the appellant. The petitioner therein had passed his pre-University course from an Extension Center of the University in the year 2004. On the basis thereof, the petitioner therein got admission in Bachelor of Homeopathic Medicine and Surgery (BHMS) course. Nearly 4 years after he got admission, a communication was issued to him to get recognition letter from the University so as to consider the eligibility of the petitioner therein for further course of action. The same was challenged. The Bombay High Court held that the petitioner therein had submitted his marksheet and the migration certificate issued by the University at the time of taking admission. On consideration thereof, he was admitted. The judgment of this Court in Professor Yash Pal's (supra) case was also referred to. However, while holding that there was no misinterpretation or fraud on the part of the petitioner therein, his admission was held to be valid.

16. What is evident from the facts of the case is that the University from which the appellants had studied had been set up under the 2002 Act enacted by the Chhattisgarh State Legislature. The aforesaid Act was declared to be ultra vires by this Court vide order dated 11.02.2005. Till such time, the students had been studying and passing out. At the time of declaration of the said Act to be ultra vires, this Court had protected the students who were still studying. They were directed to be transferred to alternative institutions recognized by the State. Considering the aforesaid fact and also that in the factual situation in hand, the appellants cannot be said to be at fault as they had studied in the University, which has been set up under the 2002 Act enacted by the State Legislature. Hence, they should not be deprived of the benefits of the degree obtained by them while studying in the University. It is not the case of the State that the University in which the appellants studied was bogus or no study was actually imparted.

17. While recording the aforesaid findings, the next question would be about the relief to which the appellants are entitled to. From the facts on record, it is evident that the services of the appellants were terminated only for the reason

that the institution in which they had studied was declared to be unrecognised. Accordingly, the orders vide which the services of the appellants were terminated have to be declared as illegal. Ordered accordingly.

18. As a consequence, the impugned order passed by the High Court is set aside. The Writ Petition filed by the appellants before the High Court is allowed. They are directed to be reinstated back in service, with continuity. However, considering the fact that they have not performed their duties for the intervening period, and it cannot be said to be a case where only the respondent-State is at fault, in our view, they should not be entitled to any back wages.

19. The appeals are accordingly allowed.

20. Pending application(s), if any, shall stand disposed of.