
(2009) 09 PAT CK 0029
In the Patna High Court
Case No : CWJC No. 9933 of 2009

S.S.P.S. College

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 02-09-2009

Acts Referred:

Citation : (2010) 58 BLJR 13

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Advocate : Ganesh Pd. Singh, for the Appellant; Ashok Kumar Keshari, (T.M. Bhagalpur University) and Lala S.N. Rais, A.C. to G.A.-9 for State, for the Respondent

Judgement

V.N. Sinha, J.—Heard learned Counsel for the petitioner and the counsel for the Tilka Manjhi Bhagalpur University.

2. Petitioner is the Principal of S.S.P.S. College, Shambhuganj. He has filed this writ application for a direction to the respondent-University and its officials to accept fee and forms of 336 students of the College for Graduate Honours Part-I Examination 2008-2009 with late fee and conduct special examination for them and publish their result.

3. It is submitted on behalf of the petitioner that earlier the petitioner College had moved this Court in C.W.J.C. No. 6782 of 2004, which was disposed of under orders dated 15.9.2006 (Annexure-2) in the light of the contents of the Government communication dated 4.9.2006 where under the College was allowed affiliation for undertaking teaching in B.A., B.Sc. and B.Com. Honours course for the Session 2006-07 and 2007-08. While disposing of the writ case under orders dated 15.9.2006 (Annexure-2), this Court directed the State Government to consider the permanent affiliation of the College for conducting courses in B.A., B.Sc. and B.Com. Honours as early as possible in any case not later than one year from 15.9.2006. It is submitted on behalf of the petitioner that the State Government and its authorities delayed the consideration of the

permanent affiliation matter of the College but under communication dated 29.7.2009 (Annexure-6) addressed to the Vice Chancellor of the University informed all concerned that the affiliation granted to the College under communication dated 4.9.2006 has been further extended for the Sessions 2008-09 till 2010-11. Prior to the issue of the communication dated 29.7.2009 (Annexure-6), the Session for the year 2008-09 had already begun by completing the admission in May-June, 2008 and beginning the Honours classes in July, 2008. Since the students pursued their studies in the Honours course from the beginning i.e. July, 2008, the University after receipt of the communication dated 29.7.2009 (Annexure-6) should have allowed the students of the petitioner-College admitted in the beginning of the Session 2008-09 including the ex-students of earlier sessions to appear in the B.A., B.Sc. and B.Com. Honours Examination of the University which commenced from 3.8.2009. As the University did not permit the students including the ex-students to appear in the said examination, the present writ petition has been filed for a direction to the respondent-University to accept the fee and forms for the Honours examination and conduct special Honours examination for the students of the College for the Session 2008-09 including ex-students. In this connection, statement has been made in paragraphs 1 and 16 of the writ petition that there are 336 students out of which 304 were fresh students admitted during Session 2008-09 and 32 were ex-students and for them special examination be conducted by the University as the University did not permit them to appear in the Honours examination, which commenced from 3.8.2009. In this connection, further statement has been made in paragraphs 14 and 15 of the writ petition that the students of the College who were admitted in Part-I of three year degree Honours course for Sessions 2008-09 in different faculties mentioned in the registration form that they intend to appear in the Honours examination. Appreciating the contents of paragraphs 14 and 15 of the writ petition, this Court under order dated 26.8.2009 directed the University to produce before this Court the registration form of the students, who were admitted in the Honours course in the College for the Sessions 2008-09. In compliance of such direction, the counsel for the University has produced the application form for registration as a student of the University of all the students of the College, who were admitted in the College for the Session 2008-09. Perusal of those form indicate that the forms have been signed by the student as also the Professor-in-Charge of the College through whom the present writ petition has been filed and is dated 17.6.2008. In Col. 6 of the application form, the student has indicated the course for which he had to be registered with the University and all the forms which have been produced indicate that the student and the Professor-in-Charge of the College requested the University to register the student for appearing in the Pass Course examination of the subject in which he was admitted by the College.

4. Learned Counsel for the petitioner having seen the application form for registration as a student of the University attempted to explain the contents of the registration form with reference to the students register for the Sessions

2008-09. In Col. 8 whereof the name of examination in which the student concerned has to appear has to be indicated and with reference to the entries made in Col. 8 of the register, it is submitted that the student had intended to appear in Part-I Honours Examination in the faculty concerned and with reference to the said entry, it is submitted that the students having been admitted by the College for Part-I Honours Course and as shown in the students register intended to appear in the Part-I Honours examination in the concerned faculty, this Court should ignore the contents of the registration form and direct the University to hold the special examination for the students as the University in spite of having received the communication dated 29.7.2009 from the State Government extending affiliation for the Sessions 2008-09 till 2010-11 did not allow the students to fill up the form for appearing in the Honours examination which commenced from 3.8.2009.

5. Counsel for the University opposed the submission. According to him, the Principal of the College through whom the writ petition has been filed has not approached this Court with clean hands and the writ petition is fit to be dismissed as according to the learned Counsel incorrect statement has been made in paragraphs 14 and 15 of the writ petition inasmuch as statement has been made therein that the students admitted for the Sessions 2008-09 in different faculties while applying for being registered with the University had intended to appear in the Honours Examination of the faculty concerned but from perusal of the registration form submitted by the student duly counter signed by the Professor-in-Charge of the College through whom the writ petition has been filed and produced before this Court, it does not appear that the student had intended to appear in the Honours examination in the faculty concerned. On the contrary the student concerned as also the Professor-in-Charge of the College made a categorical request to register the student in Pass Course of the faculty with intention to appear in Pass Course Examination and not Honours Examination. It is further submitted by the learned Counsel for the University that there is no clear statement in the writ petition about the 32 ex-students that they have been registered for the Honours Course as such prayer in regard to them also is fit to be rejected.

6. Having heard counsel for the petitioner and the counsel for the University and having perused the contents of the writ petition as also the application form for registration as a student of the University and the contents of the student register for the Sessions 2008-09, I am of the view that the student and the Professor-in-charge of the College while applying for registration of the student with the University had submitted that the students be registered for Pass Course in the faculty concerned but contrary to the contents of the application form for registration entry was made in the students register which was prepared on 14.7.2008 that the student intends to appear in the Honours examination of the faculty concerned for the Sessions 2008-09 and as the contents of the students register is contrary to the contents of the application form for registration which has been signed by the student himself as also the Professor-in-Charge the

contents of the form should prevail over the contents of the register.

7. The students are admitted in the College but for appearing in the examination they are registered with the University and as the students admitted in the College may be for honours Course were registered with the University with intention to appear in Pass Course examination they could appear only in the Pass Course Examination and the request to allow them to appear in the Honours Examination in my opinion was not justified and as the request was not justified it was rightly refused by the University by not permitting the students registered for intending to appear in Pass Course to appear in the Honours Examination. This may be true for the students who have been admitted for the Sessions 2008-09, but the same shall not be the correct position in regard to the 32 students who have been admitted for earlier Sessions when the College had the affiliation for the Honours Course and if those students have been registered with the University with intention to appear in Honours examination the University ought to have allowed the 32 ex-students to appear in the Honours Examination which began on 3.8.2009 and as the University did not even permit those 32 ex-students to appear in the Honours Examination which began on 3.8.2009, I direct the Vice Chancellor of the University to consider the case of 32 ex-students for appearing in the special examination provided they were registered with the University with intention to appear in the Honours Course of the Session for which they were admitted. Appropriate orders in this regard be passed by the Vice Chancellor of the University as early as possible in any case within one month from the date of receipt/production of a copy of this order.

8. The registration allowed to the students of Sessions 2008-09 for intending to appear in the Pass Course examination be deemed as registration for intending to appear in Honours Course examination and the fee deposited by them for appearing in the Honours Examination 2009 be utilized for their appearance in the next examination.

9. This writ application is, accordingly, disposed off.