

Ritesh Kumar and anr. Vs. State of Bihar and ors.

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Court : Patna

Decided On : Oct-17-2001

Judge : S.N. Jha, J.

Appeal No. : C.W.J.C. No. 6127 of 2000 and 11105 of 2001

Appellant : Ritesh Kumar and anr.

Respondent : State of Bihar and ors.

Prior history : S.N. Jha, J. 1. These two writ petitions on behalf of students of Maulana Azad College of Engineering and Technology, Anishabad, Patna have been heard together and are disposed of by this common order. In CWJC No. 6127 of 2000 the prayer is for direction upon the respondent- Magadh University to regularise the academic sessions for the students of 1997- 2001 batch of the Bachelor of Science (Engineering) course, and to hold the second year examination. In CWJC No. 11105 of 2001 the prayer is f

Judgement :

S.N. Jha, J.

1. These two writ petitions on behalf of students of Maulana Azad College of Engineering and Technology, Anishabad, Patna have been heard together and are disposed of by this common order. In CWJC No. 6127 of 2000 the prayer is for direction upon the respondent- Magadh University to regularise the academic

sessions for the students of 1997- 2001 batch of the Bachelor of Science (Engineering) course, and to hold the second year examination. In CWJC No. 11105 of 2001 the prayer is for a direction to hold the final year examination for the students of 1996-2000 batch of the B.Sc. (Engineering) course.

2. The case of the petitioners is that they were admitted to the B.Sc. (Engineering) course in the respective session on the basis of Combined Engineering Entrance Examination in the Maulana Azad College of Engineering and Technology (in short, the College). The College has been duly approved and recognised by the All India Council for Technical Education (AICTE). It also enjoys affiliation from the Magadh University. The University is under obligation to hold examination as and when due but the examinations are not being held on time resulting in loss of session. It has been stated that on account of non-holding of examinations on time the students of the same batch admitted in other Engineering Colleges have already stolen march over them which is likely to affect, ultimately the job prospects of the students of the College. The petitioners rely on an order of this Court dated 6-8-1999 in MJC Nos. 2172 and 2173 of 1999.

3. Perusal of the said order which has been passed in continuation of the order dated 3-2-99 in CWJC No. 6973 of 1998, titled Raushan Rishu and Anr. v. State of Bihar, reported in : AIR1999 Pat99 , shows that CWJC No. 11105 of 2001 is covered by the said orders, which had been preferred on behalf of students of 1996 -2000 batch itself of the College. The grievance of the petitioners of 1996-2000 batch is thus squarely covered by those orders. In fact, CWJC No. 6127 of 2001 also is covered by those orders though the case relates to 1997-2001 batch.

4. That the examination should be held and results of the appearing students should be published goes without saying in the ordinary course. It hardly needs any judgment or direction. No doubt, where the institution is not approved or recognised by the concerned authorities and affiliated with the concerned examining body the students thereof cannot claim any such right to appear nor any direction can be issued upon the examining body to hold examination for them and/or to allow them to appear in such examination. In the instant case, however, from Annexures C series it appears that AICTE has accorded approved to the

College up to Session 2001 - 2003 for (i) Computer Science and Engineering, (ii) Electronics and Comm. Engineering, (iii) Information Technology, and (iv) Mechanical Engineering for specified student intake as mentioned therein. The only controversy is as to whether the College is affiliated to Magadh University under whose jurisdiction it comes. The stand of the University is to the contrary but the same already stands rejected by this Court after detailed discussion in MJC Nos. 2172 and 2173 of 1999. LPA No. 998 of 1999 against the said order was summarily dismissed. I wonder, if there is any scope for raising the same controversy again by the University. Detailed arguments were nonetheless made but in view of the definite findings recorded on the point earlier by this Court I consider it would be wastage of time to embark upon fresh discussion. If the University was not satisfied with the judgment of this Court and directions given thereby it should have gone to the Supreme Court.

5. So far as disposal of these cases is concerned, it appears that in the first case i.e. CWJC No. 6127 of 2000 the examination for the second year students of 1996-2001 batch was held during pendency of the case between 12-12-2000 and 2-1 -2001. The results were also published some time in August 2001. Now examination for the third year Course has to be held. The definite case of the petitioners is that they have already completed the course. In the circumstances, all that needs to be done is to direct the University to hold examination within a time frame, preferably within six weeks of receipt of a copy of this order, and publish the result as soon as possible thereafter.

6. So far as CWJC No. 11105 of 2001 is concerned, as indicated above, the case is squarely covered by the directions issued earlier in CWJC No. 6973 of 1998 and MJC Nos. 2172 and 2173 of 1999. It appears that this Court while disposing of the writ case, by order dated 3-2-99, had fixed a schedule for holding the examinations. If the University has failed to adhere to the time schedule, prima facie, it is guilty of contempt for which it is open to the petitioners to take recourse to under the Contempt of Courts Act. As specific directions have already been issued, fixing time schedule and directing the University to hold examination as per the schedule, I do not think the Court is called upon to issue similar direction. Nevertheless, I would observe that the University will be well advised, in order to

purge itself of possible contempt, if even at this stage examination for final year students of 1996- 2001 batch is held within six weeks of receipt of a copy of this order.

7. These writ petitions are disposed of with the observations and directions as mentioned hereinabove.

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