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Sunil Kumar Parimal and anr. Vs. the State of Bihar and ors.

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Overruled by : [Sunil Kumar Parimal and Anr. Vs. The State of Bihar and Ors.](#)
[Dated 11.09.2007](#)

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Court : Patna

Decided On : Jan-24-2007

Judge : Aftab Alam and Rekha Kumari, JJ.

Appellant : Sunil Kumar Parimal and anr.

Respondent : The State of Bihar and ors.

Advocate for Pet/Ap. : Mr. Basant Kumar Choudhary

Disposition : Appeal dismissed

Judgement :

1. Heard Mr. Basant Kumar Choudhary counsel for the appellants.
2. This appeal is filed against the judgment and order, dated 12.9.2006 by which the learned single Judge dismissed CWJC No. 8091 of 2006 filed by the appellants-writ petitioners seeking a direction to the Bihar School Examination Board to allow them to appear in the examination for the diploma course in physical education held by it.
3. The two appellants claim to be the students of Tirhut Physical Education College, Muzaffarpur, Appellant No. 1 was a student in 1994-95 session and

appellant No. 2 in 1995-96 session. According to the appellants the college was granted recognition by the State Govt. for three sessions i.e. 1993-94 to 1995-96. It is relevant to state here that the National Council of Teacher Education Act, 1993 came into force with effect from 17.8.1995. The Act allowed private colleges to make an application for recognition before the National Council of Teacher Education within six months from the date of the enforcement of the Act. It is an admitted position that Tirhut Physical Education College, Muzaffarpur (where the appellants claim to have pursued their course) did not make any application for recognition before the National Council of Teacher Education. In other words the recognition, if any, granted to it by the State Govt. came to an end on expiry of the six months' period from 17.8.1995.

4. The learned single Judge noticed that examinations for the course were held by the Board in 2002 and 2006 in which the writ petitioners-appellants were not allowed to appear. In the aforesaid facts and circumstances the learned single Judge was of the view that as on date the college being non-recognised, no direction can be issued for its students to appear in the examination.

5. Mr. Choudhary submitted that the appellants were unable to appear in the past two examinations conducted by the Board for no fault on their part. He referred to certain annexures in the writ petition that show that as late as in the year, 1998, the State Govt. had written to the Board to conduct examination for the students of the college. But somehow or the other no examination was held for the students of the college.

6. We are not impressed by the submission whether or not any examination held for the students of the College after it had lost recognition would have been valid is not the issue before us. The fact of the matter is that the appellants did not appear in the examination while the college enjoyed recognition by the State Government: they also did not appear in the past two examinations held by the Board. Under the circumstances it would be rather late in the day to direct the Board to let the appellants appear in the examination after the college has lost its recognition now for more than ten years.

7. On hearing Mr. Choudhary and on going through the materials on record we find no infirmity in the order passed by the court. We see no scope for any interference in this matter. This appeal is dismissed.

8. This order is being passed in presence of Mr. J.P. Shukla, Senior Advocate appearing for the Bihar School Examination Board and the J.C. to A.A.G representing the State.

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