

Patna High Court

Akhtar Alam vs B.N. Mandal University And Ors. on 13 August, 2002

Equivalent citations: 2002 (3) BLJR 1847

Author: C K Prasad

Bench: C K Prasad

JUDGMENT Chandramauli Kr. Prasad, J.

1. In this application, prayer made by the petitioner is to issue a writ in the nature of mandamus commanding the respondents to issue marks sheet as also the certificate of B.A. Geography (Hones) examination.

2. Shorn of unnecessary details facts giving rise to the present application are that the petitioner appeared in B.A. Part I examination and was promoted to the B.A. Part II course as he had failed in English subsidiary paper. Thereafter, petitioner appeared in B.A. Part II examination which commenced on 16.6.1997 and passed in all the subjects excepting English paper. He appeared in the English paper of B.A. Part II examination, which commenced on 5.1.1998 and passed the said examination. Thereafter, he appeared in BA Part III examination as also in English paper of B.A. Part I examination which commenced on 8.6.1998. It is his assertion that although he had passed in B.A. Part I English paper and B.A. Part III examination, but his result has not been published. Prayer of the petitioner is to direct the respondents to publish his result.

3. Counter affidavit has been filed on behalf of Respondent Nos. 1 to 4 and their stand in the counter affidavit is that petitioner was not eligible to appear in B.A. Part III examination in view of the Clause 7.1 of the Regulation of the University which, inter alia, provides that no person shall be eligible for admission to B.A. Part III class unless he has passed B.A. Part I examination in the subject concerned, it has been pointed out in the counter affidavit that as the petitioner did not pass in the English paper of B.A. Part I examination, he was not eligible for admission in B.A. Part III and as such, respondents did not err in withholding the result of the petitioner.

4. Mr. Sidhendra Narain Singh, very fairly States that in view of the provisions of Clause 7.1 of the Regulation of the University, petitioner may not be eligible for admission in B.A. Part III course but the fact of the matter is that he was admitted in B.A. III class and thereafter, allowed to appear in the examination and hence, equity demands that the result of the petitioner be declared. He emphasized that the petitioner has passed B.A. Part I examination in English subject which was held on 8.6.1998 and on that also B.A. Part III examination commenced, it shall be inequitable to withheld the result of the petitioner. In support of his submission, he has placed reliance on a judgment of this Court in the case of Punam Kumari v. Lalit Narain Mithila University and Ors. 1993 (2) BUR 761 : 1993 (1) PLJR 609 and the Supreme Court in the case of Council of Homoeopathic System of Medicine, Punjab and Ors. v. Suchintan and Ors. .

5. Mr. Uday Chand Prasad, however, appearing on behalf of the University-respondents submits that in view of the provisions of Clause 7.1 of the Regulation, the University has no option then to withheld the result of the petitioner.

6. Having given my most anxious considerations to the rival submissions, I am of the opinion that equity is in favour of the petitioner. Petitioner was admitted in B.A. Part III class without any objection. Petitioner was further allowed to appear in B.A. Part III examination which commenced on 8.6.1998. He also appeared in the English paper of B.A. Part I examination on 8.6.1998. His admission to B.A. Part III class may not be permissible under the Regulation but the fact of the matter is that he was admitted in B.A. Part III class and was allowed to appear in B.A. Part III examination. He also appeared in English paper of B.A. Part I examination. The facts enumerated above, were known to the respondents and it is not the case of respondents that the petitioner even suppressed it or misrepresented before them. In such a situation, I am of the opinion that at this belated stage, the respondents cannot withhold the result of the petitioner. In such a distance of time, it shall be inequitable not to publish the result of the petitioner.

7. In the result, the application is allowed. Respondents are directed to publish the result of the petitioner and make him available his marks sheet as also the certificate.