

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.380 of 2025

In
Civil Writ Jurisdiction Case No.3571 of 2024

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Shashikesh Kumar Son of Sri Ranjeet Prasad, Resident of Mohalla- Bhelu Chak, P.O.- Kabir Chak, Police Station- Sadar, District- Darbhanga (Bihar).

... .. Appellant/s

Versus

1. The Vice-Chancellor, Bihar Engineer University, Mithapur, Patna.
2. The Registrar, Bihar Engineering University, Mithapur, Patna.
3. The Examination Controller, Bihar Engineering University, Mithapur, Patna.
4. The Principal, Darbhanga College of Engineering, Darbhanga.
5. The Principal, Rastrakavi Ramdhari Singh College of Engineering, Begusarai.
6. Shubham Kumar Son of Chitranjan Kumar Resident of A.F. S.T.N. Bihta, MES Colony, Q/no.- 132, Bihta, P.S. - Bihta, District- Patna

... .. Respondent/s

with

Letters Patent Appeal No. 409 of 2025

In
Civil Writ Jurisdiction Case No.3571 of 2024

=====

Shubham Kumar Son of Chitranjan Kumar, Residence of - A.F. STN Bihta, M.E.S. Colony, Quarter NO. 132, Bihta, P.S. - Bihta, District- Patna.

... .. Appellant/s

Versus

1. The Vice Chancellor, Bihar Engineering University, Patna.
2. The Registrar, Bihar Engineering University, Patna.
3. The Examination Controller, Bihar Engineering University, Patna.
4. The Principal, Darbhanga College of Engineering, Darbhanga.
5. The Principal, Rashtra Kavi Ramdhari Singh College of Engineering, Begusarai.
6. Shashikesh Kumar Ranjeet Prasad R/O- MOH. Bheluchak, P.O. Kabirchak, P.S.- Sadar, Dist.- Darbhanga, Bihar

... .. Respondent/s

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Appearance :

(In Letters Patent Appeal No. 380 of 2025)

For the Appellant/s : Mr. Hari Shankar Roy, Adv.
For the Respondent/s : Mr. P.K. Shahi, Sr. Adv.
Mr. Satyam Shivam Sundaram, Adv.
Mr. Ankit, Adv.
Mr. Aman Kumar, Adv.

(In Letters Patent Appeal No. 409 of 2025)

For the Appellant/s : Mr. Hari Shankar Roy, Adv.
For the Respondent/s : Mr. P.K. Shahi, Sr. Adv.



Mr. Satyam Shivam Sundaram, Adv.

Mr. Ankit, Adv.

Mr. Aman Kumar, Adv.

**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT
(Per: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA)**

Date : 19-09-2025

Heard the parties.

2. The Appellants in the present writ application have prayed for the following reliefs:

“1. For issuance of an appropriate order, direction, or observation, preferably in the nature of a writ of Mandamus, directing the respondents to conduct a re-examination of the second semester for the academic year 2021–22, of the Appellants, who are students of the Computer Science and Engineering branch of Darbhanga College of Engineering, Darbhanga, Session 2022–2026.

2. For issuance of a further direction in the nature of Mandamus commanding the respondents to consider the application of the Appellants sympathetically, with understanding and compatibility, by condoning the shortage of 75% attendance required for appearance in the examination, in view of the fact that they were facing unfortunate and special circumstances during their academic period.

3. For issuance of an additional order directing the respondents to permit the Appellants to appear in the examinations to be conducted by the respondents.



4. *For issuance of an appropriate writ or direction to declare Annexure-D as arbitrary and discriminatory, as students with attendance less than that of the Appellants in the said college but of the junior batch (Session 2022–26) were allowed to fill up the forms and appear in the end semester examination, and their results have also been published.*

5. *For issuance of an appropriate writ or direction declaring that not arranging a special examination for the Appellants, despite the actions of the respondents, is unjust, particularly when students who had failed were allowed to face special examinations, though there exist no rules, regulations, or guidelines in this respect.*

6. *For issuance of an appropriate writ or direction declaring that under the jurisdiction of the same University, different colleges cannot adopt different yardsticks for debarring a student from appearing in the examination on the basis of lesser percentage of attendance.*

3. Learned counsel for the appellants submits that appellant, Shubham Kumar, is a student of B.Tech (Computer Science), Session 2021-2025, at Rastrakavi Ramdhari Singh College of Engineering, Begusarai, and appellant, Shashikesh Kumar, is a student of B.Tech (Civil Engineering), Session 2022-2026, at Darbhanga College of Engineering, Darbhanga, both of which are affiliated to Bihar Engineering University, Patna. It is



the grievance of the petitioners that they were debarred from filling up their examination forms on account of shortage of attendance. It is contended that appellant no. 1 was debarred pursuant to Notification dated 04.01.2024 (Annexure-D), bearing letter no. RRS DCE/EC/2024/001, whereas appellant no. 2 was debarred under Notification dated 19.09.2023(Annexure F), bearing letter no. 1325, issued vide administrative order.

4. It is urged that appellant, Shashikesh Kumar had been suffering from jaundice between 25.07.2023 and 16.09.2023, for which he underwent treatment, as supported by certain medical documents placed on record as Annexure-I series. On account of this illness, he could not attend classes regularly, and his absence, being involuntary, should have been condoned by the authorities.

5. Learned counsel for the appellants has further argued that appellant, Shashikesh Kumar was duly allowed to submit his examination form along with the prescribed fee of Rs. 3,700/-, which was accepted by the University on 20.09.2023, vide Exam Form No. 111/943(Annexure H). It is contended that once the University had accepted the examination form and requisite fee, debarring appellant from appearing in the end-semester examination solely on the ground of attendance shortage was arbitrary, unjust, and in breach of the legitimate expectation arising



from such acceptance. Further, appellant was also allowed to deposit the annual fee as per the prescribed structure and was issued a receipt dated 30.12.2023 for Rs. 200/- (Annexure-I), which, according to the appellants, strengthens the case that he was treated as a bona fide student for the concerned session. It is thus urged that the subsequent action of disallowing him from appearing has caused serious prejudice and irreparable injury to his academic career.

6. It is further submitted that this action stands vitiated for non-compliance with the principles of natural justice, in as much as appellant, Shashikesh Kumar was debarred without being served any prior notice or show-cause notice and without even informing his parents regarding the alleged shortage of attendance. Learned Counsel contends that such denial of opportunity not only deprived him of a fair chance to explain his circumstances but also renders the impugned action unsustainable in law.

7. It is contended that an official order was issued by the concerned college authority whereby the students whose names appeared in the list on account of shortage of attendance were restrained from filling up the examination forms of the University (Annexure-B). The appellants further submit that such direction has been applied in an arbitrary and discriminatory manner



inasmuch as, on the one hand, they have been debarred from appearing in the examination on the ground of having less than 75% attendance, while, on the other hand, several other students with attendance below the prescribed limit have been allowed to fill up the forms and appear in the examinations (Annexure-K). It is their categorical case that such inconsistent treatment amounts to hostile discrimination and is violative of Article 14 and Article 21 of the Constitution of India.

8. Per contra, learned counsel for the respondents submitted that as per the regulations of the All India Council for Technical Education (AICTE), duly adopted by Bihar Engineering University and the Department of Science and Technology, Government of Bihar, a student must have a minimum of 75% attendance in order to be eligible to appear in semester examinations.

9. It is contended that no discretion or enabling provision exists under the University regulations for condonation of shortage of attendance on the ground of illness or otherwise. The plea of medical illness by appellant, Shashikesh Kumar, even if accepted at face value, cannot override a statutory requirement. The appellants, having attendance of 34% and 26% respectively,



were far below the statutory minimum of 75% and, therefore, not eligible to appear.

10. It was further submitted that repeated notices were issued to all students, including the appellants, regarding shortage of attendance, and remedial classes were also held, but the appellants failed to avail the opportunity. The respondents point out that by Administrative Order dated 09.09.2023 (Annexure-E), the appellants were duly informed about the shortage of attendance, and thereafter appellant no. 2 was debarred from appearing in the mid-sessional test by Order dated 19.09.2023 (Annexure-G). Only upon depositing examination fees under Annexure-H series was he permitted to fill up the form. However, this permission did not condone the shortage of attendance, which continued to disqualify him from appearing.

11. On the allegation of discrimination, it is submitted that the appellants have not placed any authentic material on record to show that any other similarly situated student was allowed to appear with less than 75% attendance. The reliance on certain letters (Annexure-B and Annexure-K series) is vague, unverified, and does not establish any uniform practice. It was contended that no student with less than 75% attendance has been permitted to appear in the examinations, and thus, the



allegation of discrimination is unfounded. The respondents also relied on the judgment of the Hon'ble Supreme Court in **Basawaraj and Another v. Spl. Land Acquisition Officer**, reported in **(2013) 14 SCC 81**, to submit that Article 14 cannot be invoked to claim parity in illegality.

8. *"It is a settled legal proposition that Article 14 of the Constitution is not meant to perpetuate illegality or fraud, even by extending the wrong decisions made in other cases. The said provision does not envisage negative equality but has only a positive aspect. Thus, if some other similarly situated persons have been granted some relief/benefit inadvertently or by mistake, such an order does not confer any legal right on others to get the same relief as well. If a wrong is committed in an earlier case, it cannot be perpetuated. Equality is a trite, which cannot be claimed in illegality and therefore, cannot be enforced by a citizen or court in a negative manner. If an illegality and irregularity has been committed in favour of an individual or a group of individuals or a wrong order has been passed by a judicial forum, others cannot invoke the jurisdiction of the higher or superior court for repeating or multiplying the same irregularity or illegality or for passing a similarly wrong order. A wrong order/decision in favour of any particular party does not entitle any other party to claim benefits on the basis of the wrong decision. Even otherwise, Article 14 cannot be stretched too far for otherwise it would make functioning of administration impossible."*



12. Learned counsel thus submits that the writ petition is misconceived, as the Appellants are seeking a relaxation which is neither contemplated by statute nor substantiated by any precedent.

ISSUES FOR CONSIDERATION

The following issues arise for determination:

(i) Whether the Appellants have shown any valid or special ground justifying relaxation of the 75% mandatory attendance requirement?

(ii) Whether the Appellants have established that any similarly placed students in other colleges/universities were permitted to appear in examinations despite not fulfilling the 75% attendance criteria?

FINDINGS

Issue (i): Whether the Appellants have shown any valid or special ground justifying relaxation of the 75% mandatory attendance requirement?

Upon consideration of the pleadings, annexures, and submissions, this Court finds that the appellants have failed to demonstrate any convincing or exceptional ground for condonation of their shortage in attendance.



While appellant, Shashikesh Kumar has relied upon medical documents (Annexure-I series) to show treatment for jaundice, such medical certificates, even if genuine, cannot substitute or override a statutory regulation which prescribes a uniform minimum of 75% attendance. It is well-settled that where the rule is explicit, neither sympathetic consideration nor equitable grounds can be invoked to defeat its operation.

It further requires to be clarified that the mere deposit of fees by appellant (Annexure-H) and permission to fill up the examination form did not amount to condonation of attendance shortage. The said permission was purely administrative in nature and could not override the statutory requirement of 75% attendance.

The Hon'ble Supreme Court in **Ashok Kumar Thakur vs. University of Himachal Pradesh** reported in AIR 1973 SC 221 has considered this aspect and made the following observations: -

“5. Considering that this case concerns the career of a young student we tried to look at the matter with all possible sympathy and consideration, but we do not see how we can direct or compel an authority to do something which is beyond its legal competence to do. Since the Principal is the only authority who can condone and since it was beyond his competence to condone the



shortage in question, we do not see how we can intervene in a favour of the petitioner even if the petitioner had succeeded in making out case for condonation. In our opinion, the appeal must fail on this short point. Much as we regret the unfortunate fact that the petitioner is going to lose almost two precious years of his academic life we are in law bound to confirm the decision of the High Court and dismiss the petitioner's appeal. We, therefore, do SO. In the circumstances of this case, however, we are making no order as to costs."

Accordingly, this issue is decided against the appellants.

Issue (ii): Whether the Appellants have established that any similarly placed students in other colleges/universities were permitted to appear in examinations despite not fulfilling the 75% attendance criteria?

As regards the allegation that other similarly placed students were allowed to appear in examinations despite having less than 75% attendance, the appellants have placed reliance on Annexure-B series and Annexure-K series. However, these annexures are in the nature of unverified letters and do not demonstrate any authoritative or binding decision of the University permitting such relaxation.

No specific names, attendance records, or official orders of the University have been brought on record to establish that students of any other affiliated college were treated differently.



Mere assertions, unsupported by cogent documentary evidence, cannot sustain a plea of discrimination.

The learned Single Judge, upon examining the pleadings and submissions, rightly held that the appellants, having secured less than 50% attendance, fell far short of the mandatory 75% requirement prescribed under the University Regulations. The Court observed that medical certificates cannot substitute statutory requirements, and no credible evidence was produced to show that similarly placed students were treated differently. Reliance was placed on the decisions of the Hon'ble Supreme Court in *Ashok Kumar Thakur v. University of Himachal Pradesh* (AIR 1973 SC 221), *All India Student Federation reported in 2019 (3) PLJR 727*, and *Basawaraj v. State of Karnataka* ((2013) 14 SCC 81), which categorically hold that Courts cannot compel condonation of shortage of attendance, sympathy cannot override statutory rules, and Article 14 does not permit negative equality. It was further found that repeated notices and opportunities were given, but the appellants failed to avail the same. The plea of discrimination was also repelled as no authentic material was placed to establish that any other similarly situated student was permitted to appear with attendance below 75%.



13. Having considerations of the submissions made by both parties and relevant records, this Court finds no infirmity in the findings of the learned Single Judge. The requirement of 75% attendance being statutory and binding, condonation beyond the permissible limit cannot be extended to cases where attendance is below 75%. The plea that the appellants had deposited fees or pursued the course does not create any vested right to appear in examination contrary to law. The authorities have applied uniform criteria in accordance with regulations, and the impugned judgment is consistent with settled principles. In exercise of Letters Patent jurisdiction, no ground is made out to interfere, as no error of law or fact has been demonstrated. Accordingly, the Letters Patent Appeal is dismissed, affirming the judgment and order dated 13.2.2025 passed in C.W.J.C. No. 3571 of 2024, with no order as to costs.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

Prakash Narayan

AFR/NAFR	AFR
CAV DATE	15.09.2025
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