

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14230 of 2014

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1. Manoj Kumar Mishra son of Sri Dharm Nath Mishra, resident of village Mukhtiyarpur, P.S. Dalsinghsarai, District Samastipur.
 2. Prabhat Kumar Singh son of Late Ram Raj Sinha, resident of village Kishunpura, P.S. Basantpur, District Siwan.
 3. Ganesh Kumar son of Sri Shashidhar Pandit, resident of RAU Campus, near BSNL Campus, P.S. Pusa, District Samastipur.
 4. Nabo Kumar Bose son of Late Nirmal Chandra Bose, resident of Teachers Colony, near High School, Pusa, P.S. Pusa, District Samastipur.
 5. Bharat Prasad Thakur son of Late Hari Nandan Thakur resident of village - Dubha, P.S. Sakara, District - Muzaffarpur.
 6. Jagannath Prasad Roy son of Sri Ram Ashish Roy, resident of village Braham Patti, P.S. Bahera, District Darbhanga.
 7. Dinesh Kumar Verma son of Sri Ram Narayan Lal Verma, resident of village Sisai, P.S. Saharsa, District Saharsa.
 8. Ranjeet Kumar son of Late Jagdish Prasad Singh, resident of Mohalla Gaighat, Gaurishankar Colony, P.S. Alamganj, District Patna.
 9. Ram Shankar Roy son of Late Rameshwar Roy, resident of village Maloul, P.S. Bahera, District Darbhanga.
 10. Arun Kumar Roy son of Sri Ram Lochan Roy resident of Pusa, P.S. Pusa, District Samastipur.
 11. Ram Sewak Singh son of Sri Ramjee Singh, resident of village Muroul, P.S. Sakra, District Muzaffarpur.
 12. Jagannath Prasad Yadav son of Late Makhan Prasad Yadav, resident of village Sisai, P.S. Saharsa, District Saharsa.
 13. Upendra Rai son of Late Sakal Rai, resident of village Mathana Milk, P.S. Mahua, District Vaishali at Hajipur.

.... Petitioner/s

Versus

1. The Union of India through Ministry of Agriculture, Department of Agriculture and Cooperation, Directorate of Economics and Statistics, Krishi Bhawan, New Delhi through its under Secretary, Government of India.
2. The State of Bihar through Agriculture Production Commissioner, Department of Agriculture, Government of Bihar, Patna.
3. The Rajendra Agriculture University, Pusa Samastipur through its Vice Chancellor,
4. The Registrar, Rajendra Agricultural University, PUSA, Samastipur.
5. The Director Administration, Rajendra Agriculture University, Pusa Samastipur.
6. The Officer In-Charge, Comprehensive Cost of Cultivation Scheme Rajendra Agriculture University, Pusa, Samastipur.

.... Respondent/s

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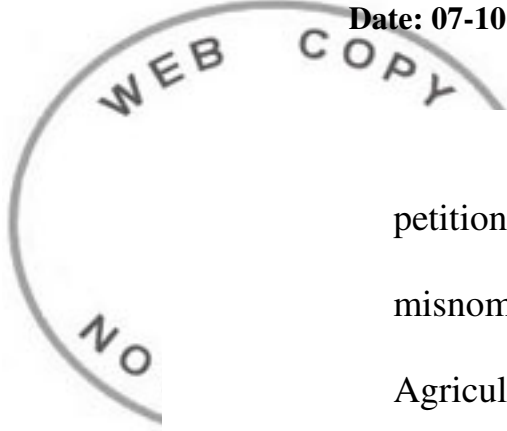
Appearance :

For the Petitioner/s	:	Mr. Arjun Kumar
For the Union of India	:	Dr. Punam Kumari Singh, CGC
For the University	:	Mr. Anil Kumar Upadhyay Mr. Chandra Mohan Singh.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 07-10-2015



The whole edifice of the present dispute raised by the petitioners is based on a wrong premise through and through. It is a misnomer that these petitioners are employees of respondent Rajendra Agricultural University, Pusa at Samastipur.

2. Just like chalk and cheese cannot be equated, similarly merely because petitioners are holders of a particular similar sounding post under a Central Government scheme being implemented through the Agricultural University, they do not become employees of the University. If it is so then their prayer for quashing Annexure-8 seems to be misplaced.

3. Counsel for the petitioners has taken this Court through a long history of litigation, originating at the level of Patna High Court and ending up at the Apex Court. Issue primarily related to regularization of casual workers working for the University. The Hon`ble Apex Court did pass an order and direction for regularization of casual employees in terms of the order, contained in Annexure-6/A. It also laid down certain formula in the manner in which regularization was supposed to be done. But the order relates to University employees.

4. Petitioners have tried to build up a case around the order of the Apex Court. The Court reproduces the relevant part of the Apex Court's order as under:

“So far as Class IV posts are concerned, regular appointment against available vacancies for regular sanctioned posts under the Bihar State Agricultural Universities Act, should be made by the casual employees who have worked in the Rajendra Agricultural University for more than 15 years (emphasis mine) against 35% of available vacancies provided such employees have requisite qualification for regular appointment and they are also physically fit for permanent absorption. In respect of balance 65% vacancies, invitation of applications by open advertisement by following the usual procedure for filling up the vacancy in the University services should be made. The casual employees of the Rajendra Agricultural University who will not be absorbed against 35% reserved quota as indicated hereinbefore, will be entitled to apply for the said 65%.”

5. This Court clearly and categorically records that the order does not apply to the petitioners. It relates to such employees who were working under the University and were required to be regularized against sanctioned vacant post under the Rajendra Agricultural University Act, at Samastipur.



6. Petitioners are not the employees of Rajendra Agricultural University. Whatever be the submission of the learned counsel representing the petitioners in this regard, they have been engaged and employed under a Central Government scheme, which is known as “Comprehensive scheme for studying the cost of cultivation of principal crops in India” (in short, C.S.S.). For this scheme, the funding was and is being done by the Central Government. The guidelines under which allocation of fund is required to be utilized are also indicated in the Scheme. The Scheme is being implemented across the country through diverse Agricultural Universities which have been identified. The Scheme is being implemented through them. The engagement was done through the universities but they all are answerable to Union of India. They have not been hired by the University from their own resources or allocation made to them by the State Government under the Act.

7. In a clever piece of exercise, petitioners had approached the High Court when there was a long delay in implementation of the directive of the Hon`ble Apex Court. The writ application was registered as CWJC No. 5459 of 2009 and it stood disposed of on 29.4.2009. A copy of the said order of the learned Single Judge is Annexure-6. Emphasis on this order and observation was also laid by the learned counsel for the petitioners that it should be read as part

and parcel of the original order of the Apex Court. The University cannot resile from the observation of the learned Single Judge.

8. This Court is constrained to record that it is a serious effort made by the petitioners, not only to mislead this Court but even the learned Single Judge was misled to believe that it was only for implementation and enforcement of the order of the Hon`ble Apex Court. In fact, with due regard if directive of the Hon`ble Apex Court was not carried out, the right remedy for such petitioners would have been moving the Hon`ble Apex Court and not filing a writ application before the High Court asking for enforcement of the order of the Hon`ble Supreme Court.

9. Not much can be derived in terms of advantage by virtue of observation made in Annexure-6. If at all such an observation is to be understood, it has to be read in conjunction with the order of the Hon`ble Apex Court.

10. The whole submissions and contentions of the learned counsel for the petitioners are to show that these petitioners have been appointed under the University as part of the scheme formulated by the Apex Court. With due respect, the advertisement (Annexure-4) as well as the letter of appointment, contained in Annexure-9, clearly indicates that their appointment is under the C. S. Scheme and their engagement and continuance on the post of fieldman is going to be as

along as the scheme subsists.

11. If the engagements of these petitioners have been made in terms of the scheme then the University can only extend the pay-scale which the Central Government has prescribed and which has been notified by the Rajendra Agricultural University in terms of Annexure-8 dated 23.4.2011. Annexure-8 is under attack by the petitioners because they feel that they are getting a lower pay-scale than the employees who are known as Kshetra Adhidarshak, working under the University.

12. The engagement or employment of the petitioners is under C. S. Scheme. The Central Government has fixed a pay-scale of Rs.3050-4590 for the Fieldman. This is the pay-scale which is being extended to these petitioners. Annexure-8 only notifies what the Central Government has authorized.

13. Another matter of significance is that Annexure-8 is dated 23.4.2011. Petitioners came to be appointed on 15.7.2011. The pay-scale indicated in the letter of appointment, contained in Annexure-9, co-relates to the pay-scale indicated in Annexure-8.

14. The stand of the Union of India supports the Rajendra Agricultural University, in the sense that engagement of these petitioners is under the scheme and detailed guidelines are available as part of the affidavit of Union of India.

15. That is the reason why the Court has observed that petitioners are not employees of the Rajendra Agricultural University. The Hon`ble Apex Court's decision in no way covers them in relation to their regularization under the Rajendra Agricultural University Act. The pay-scale indicated in Anneuxre-8 indicates the correct facts and position.

16. Writ application has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

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