

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1407 of 2015

Harikant Barua son of Late Siya Sharan Prasad Sinha resident of Village+ Post-
Barua Bahuara, Via- Bidupur Railway Station, P.S. - Rajapaker, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
2. Jai Prakash University, Chapra through its Registrar.
3. Vice Chancellor , Jai Prakash University, Chapra.
4. Registrar, Jai Prakash University, Chapra.
5. Purvottar Railway College, Sonepur, District- Chapra through its Principal
6. Secretary, Governing Body, Purvottar Railway College, Sonepur, District- Chapra.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava
For the Respondent/s : Mr. RAJIV KUMAR SINGH

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 23-04-2015

23.04.2015

Heard learned counsel for the parties.

Petitioner filed the writ application first to quash Annexure-2, which is the voter-list prepared by the incharge Headmaster of what is known as Purvottar Railway College, Sonepur in the District of Chapra as also approved by the university. He also wants quashing of Annexure-5, which was a rejection of the objection and now Annexure-8, which is the notification issued by



the university, showing the private-respondent as the elected representative representing the teachers of the college. Annexure-8 is the part of I. A. No. 1562 of 2015, which is allowed. Two other Interlocutory Applications were also filed. Another Interlocutory Application, which is I. A. No. 2217 of 2015 for intervention; and I. A. No. 2387 of 2015 for impleading of the private-respondent, these Interlocutory Applications are allowed.

A writ application was earlier filed when certain teachers were sought to be excluded from the voter-list for the purposes of electing a representative for the teachers, who will ultimately form part of the governing body of the college in question. After due consideration the writ application was dismissed, but certain observations and directions were issued and a significant observation made in the said Order, contained in Annexure-7 is: **“The essence of democracy is election of a representative by the majority and not on a truncated kind of electoral roll which can never be the true reflection of the will of the people”.**

This time the dispute has again arisen because a truncated kind of voter-list was again prepared and approved by the university, based on which the private-respondent no. 7 was shown to be



elected as a teacher representative. Annexure-2 is the voter-list. This voter-list is supposed to have been prepared only of such teachers who are working on the sanctioned post. A stand is taken by the private-respondent and the university that teachers who are not appointed on a regular sanctioned post have been excluded because they have no status in the eye of law.

The alternative argument also made is that since the petitioner is not getting paid from the fund of the State, therefore, in terms of the previous observation made by this Court in Annexure-7, he is not entitled to be included in the electoral roll.

Both these aspects have been vehemently denied by counsel for the petitioner, who has demonstrated on the basis of the material brought on record that this petitioner is very much working on a sanctioned post and the sanction made by the university itself. Therefore, obviously a misleading kind of stand has been taken with oblique motive. Another significant aspect is that all such persons including private-respondent whose names figure in Annexure-2, including the present petitioner, are getting paid from the internal resources of the college. This fact can be established from a look at Annexure-6 of the writ

application. This is the list, which indicates the persons who are to be paid as recently as November, 2014 and this is the advice given to the Branch Manager, Punjab National Bank, Sonapur by the Principal of the said college. Therefore, the mode of payment of the present petitioner is not different from the mode of payment made to the private-respondent or other persons, whose names figure in the electoral roll.

A supplementary counter affidavit has been filed on behalf of private-respondent no. 7 where he has very proudly declared that he was a unanimous choice of the majority to represent the teachers and based on the said unanimous election of the private-respondent, Annexure-8 has been notified.

Such kind of unanimity is rarely seen in any electoral battle, whatever be the post, in a free democratic India. Such unanimity, obviously, is begotten by manipulation, coercion, threat or simply creation of documents. I don't know which methodology has been adopted with regard to reaching unanimity on the name of the private-respondent in the present case. Even if factum of unanimity is accepted on the face value, the facts stand that a teachers' representative must be true representative after the will of the majority is expressed.

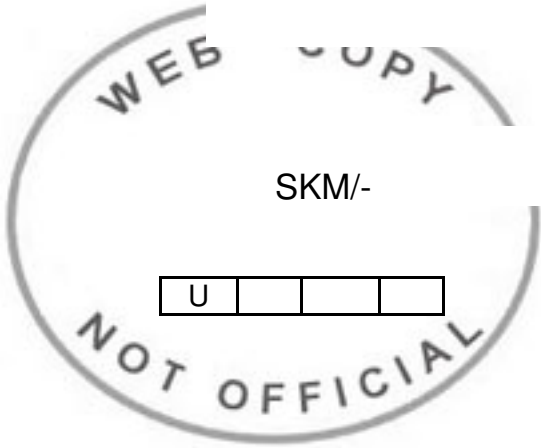


Obviously, an effort has been made by certain vested interests in which even the Principal of the college is a party in creating a truncated kind of a voter-list to manipulate the end result of election of a teachers' representative. If the electoral college is rigged or is not complete, then no kind of unanimity or election can be said to be a fair election in the eye of law.

The Court, therefore, is left with no option but to quash Annexure-8 and direct the District Magistrate of Saran that he will ensure preparation of an electoral roll of all the teachers who are working in the college and whose names emerge from Annexure-6 of the writ application. He shall prepare a date for holding an election and it is his personal responsibility to ensure that a free and fair election of a teachers' representative by following the procedure is completed within a period of six weeks from the date of production / communication of a copy of this Order. This Court has put trust and faith on the District Magistrate, Saran and hopes that he will conduct the election in a non-participation manner, irrespective of the pressure groups or any political telephone calls, which he may receive in this regard.

Let a copy of the Order be communicated to the District Magistrate, Saran by the office immediately.

Writ application is allowed with observation /
direction as above.



(Ajay Kumar Tripathi, J.)