

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20332 of 2013

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Dr. Jai Prakash Narayan Jha S/O Late Rama Nath Jha Resident Of Mohalla
- Sipahi Tola, P.S. Khajanchi Hat, District - Purnea, At Present Working As
Pro Vice Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Government Of Bihar, Patna
2. The Bhupendra Narayan Mandal University , Laloo Nagar, Madhepura Through Its Registrar
3. The Vice Chancellor, The Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura
4. Dr. R.N. Mishra Son Of Not Known To The Petitioner At Present Working As Vice Chancellor , B.N. Mandal University, Laloo Nagar, Madhepura

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha

For the Respondent/s : Mr. Rajiv Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

18 30-11-2015

Heard learned counsel for the parties.

2. This writ application, which was filed initially on 1.10.2013 complaining several acts, omissions and commissions of the Acting Vice Chancellor of B.N.Mandal University, is at the instance of the petitioner, Pro Vice Chancellor of the University, who had sought for the following relief:

“For directing and commanding the respondents particularly the respondent no.3 to allow the petitioner to work which has been provided under the statute particularly Section 12(v) of the Bihar State University Act, 1976 and as much as the work which has been assigned to the petitioner as Pro Vice Chancellor by the standing order issued by his Excellency Chancellor time to time and further for a direction upon the

respondent no.4 to allow the petitioner all such privilege which has been assigned to the petitioner being Pro Vice Chancellor under the said standing order which has been affected with effect from 1.1.2002 for smooth functioning and discharging all the work assigned to the post of Pro Vice Chancellor and further not to disturb the petitioner in any manner in discharge of his official duty as the respondent no.4 unnecessarily making all hindrance by not sending any file specially assigned to the petitioner under the aforesaid Act and statute and standing order and not providing any privilege or facility and further allow the petitioner to function in discharge of his official duty in accordance with law.”

3. As a matter of fact this writ application was heard alongwith similar writ application being C.W.J.C.No. 20755/2013, C.W.J.C.No. 10237/2013, C.W.J.C.No. 16259/2013 and C.W.J.C.No. 16812/2013. In all of whom various acts and omissions on the part of Dr. R.N.Mishra, the Acting Vice Chancellor, was complained. This Court had the occasion to not only peruse the stand of the Acting Vice Chancellor but in fact in the order dated 20.12.2013 the entire illegalities and irregularities alleged against Dr. R.N.Mishra, the acting Vice Chancellor, were noted and to that extent it will be profitable to extract the entire order dated 20.12.2013 of this Court which reads as follows:

“Heard learned counsel for the parties.

All these writ applications, though seeking separate individual relief, have one thing in common inasmuch as all of them are directed against the decisions taken and orders passed at the behest of Dr. R.N.Mishra, who was appointed as Vice Chancellor of the B. N. Mandal University

(hereinafter referred to as „the University“) by way of purely temporary arrangement in terms of Section 13 of Bihar State Universities Act, 1976 (hereinafter referred to as „the Act“) read with interim orders of Apex Court dated 18.03.2013, 16.04.2013 and 23.04.2013 in S.L.P.(C) No. 12409 of 2013.

In order to appreciate the nature and scope of these writ applications, it would be thus necessary for this Court to first have an eye bird view as to nature of complain of the petitioners in all these writ applications.

C.W.J.C. No. 20332 of 2013:

This writ application has been filed by Dr. Jai Prakash Narayan Jha, the Pro Vice Chancellor of the University wherein all that he wants is that he should be allowed to work on his post without any hindrance as allegedly being caused by Dr. R.N.Mishra, the present acting Vice- Chancellor. He has a grievance that though both, the petitioner and Dr. R.N. Mishra, were appointed by way of temporary arrangement, in terms of the order of the Apex Court in S.L.P. (C) No. 12409 of 2013, to work as Pro Vice Chancellor and Vice Chancellor respectively, he (petitioner) is not being allowed to function and his statutory powers have been divested by Dr. Mishra. In this regard, he has stated that not a single file is being placed before him only under the instructions of Dr. Mishra, the present acting Vice- Chancellor and he has also been subjected to him to all sorts of humiliation at the behest of Dr. Mishra. He has also, in this regard, complained that despite powers exclusive vested in him under Section 12(5) of the Act as with regard to admission and conduct of the examination up to Bachelor course conducted by the University and publication of its result he has not at all been associated in any decision taking process.

The petitioner has a further grievance that he has not been even furnished with the basic facilities such as a



furnished accommodation and a vehicle yearmarked to the post of Pro-Vice Chancellor. He has further enumerated a number of illegal actions taken by Dr. Mishra, the present acting Vice- Chancellor, by way of appointing two parallel Registrars, six Deputy Registrars, two Finance Officers, a Dean from a private medical College at Kishanganj as also indulging in transferring a large number of teaching and non-teaching staffs without taking into confidence the statutory standing committees constituted by the learned Chancellor as also approval of Syndicate, which infact has been allowed to meet only once in the period of last five months.

The cup of miseries of the petitioner present acting Pro-Vice Chancellor, in fact has been filled up on account of autocratic decisions taken by Dr. Mishra by way of an oral direction to the Principal of Purnea Mahila College to withhold the payment of salary of the petitioner from where he was being paid salary prior to being made Pro Vice Chancellor. In this regard, he has also explained that his leave applications though is required to be sanctioned only by the learned Chancellor, but Dr. Mishra has been himself passing order on such leave applications of the petitioner and also rejecting them whimsically.

All these facts, according to the petitioner, were also brought by him to the notice of the learned Chancellor and the office of the learned Chancellor had also made an enquiry from him (Dr. Mishra) but even that has not been replied by Dr. Mishra, the present acting Vice- Chancellor as yet. According to the petitioner, even a witch hunting in retaliation had been started by Dr. Mishra against him by summoning all his service records from the Principal of Purnea Mahila College vide letter dated 19.10.2013.

In reply to all these allegations, Dr. Mishra has filed an affidavit in which he has denied them by taking a plea that though the petitioner was allowed an official



accommodation, but he himself had vacated the same on 17.06.2013 and, in fact, he (petitioner) is also not residing in the University's Headquarters and as such no work by way of his official duty can be assigned to him. He has further gone to deny the allegation of interference in the powers exercised by the petitioner in capacity of Pro Vice Chancellor and as claimed that whatever he has been doing is by way of his power of supervision in terms of Section 17(5) of the Act. As with regard to stopping of payment of salary of the petitioner, Dr. Mishra, the present acting Vice-Chancellor has taken a stand that it was done only in the wake of a letter received from the Principal of Purnea Mahila College dated 18.09.2013 and that such actions for stopping of payment of salary of the petitioner were taken in capacity of Vice-Chancellor of the University.

The petitioner has also filed a reply to the aforesaid counter affidavit, wherein apart from the documentary evidence led in the main writ application as with regard to misuse of powers of the office of Vice Chancellor he has also enclosed the orders passed by Dr. Mishra appointing Sri Birendra Mohan Thakur, Proctor-cum- Secretary of the B.M.T. Law College, Purnea to work as Dean Faculty of Law; Dr. Mrinal Kumar Jha, Assistant Professor, Millia Fakharuddin Ali Ahmad B.Ed. Teacher's Training College, Rambagh, Purnea as Inspector of Colleges of Education; Dr. Shampa Sinha, Principal, Associate Professor of Millia Fakharuddin Ali Ahmad B.Ed. Teacher's Training College, Rambagh, Purnea as Dean Faculty of Education as well transferring Dr. Narendra Shrivastava, Associate Professor in the Post-Graduate Department of Zoology on 07.08.2013 to the Purnea College, Purnea and again back to University Headquarters on 16.12.2013.

Let it be noted that in this case, an intervener application has been also filed by one Dr. Mohammed

Kamal complaining his transfer from the post of Principal of Araria College, Araria vide order dated 22.10.2013 on the ground that his transfer was not only mala fide but also without jurisdiction. He has explained that he had been unceremoniously victimized by Dr. Mishra only because he had taken some strict measures for conducting the examination in the capacity of Principal –cum- Centre Superintendent of Araria College.

C.W.J.C. No. 16259 of 2013:

In this writ application the petitioner, Dr. Suresh Prasad Yadav, has assailed the order dated 07.08.2013 passed by Dr. R. N. Mishra, the present acting Vice Chancellor whereby and whereunder one Dr. T. V. R. K. Rao, Principal of Purnea College, has been appointed as Dean Faculty of Science. According to the petitioner, Dr. Rao is junior to him and yet it is only on account of grace bestowed by Dr. Mishra that Dr. Rao has been appointed as Dean Faculty of Science. He has explained that after advent of Dr. Mishra, firstly he was transferred from the post of Principal of D.S College, Katihar to T. P. College, Madhepura and thereafter his claim for becoming Dean was unceremoniously rejected by appointing Dr. T. V. R. K. Rao as Dean Faculty of Science though he was appointed as a Principal in the University service only on 02.03.2009 while the petitioner was appointed as a Principal in the University on 21.01.1996.

In this case a counter affidavit has been filed on behalf of the present acting Vice Chancellor wherein no explanation has been given for the sudden transfer of the petitioner from the post of Principal of D. S. College, Katihar to L.T. College, Madhepura and in defence of the appointment of Dr. Rao, Dean Faculty of Science, it has been stated that since he was appointed as a Principal in the year 2009 in the higher pay scale of Professor, he would be deemed to be senior to the petitioner who is also working on

the post of Principal since 1996 but in the pay scale of Reader.

In reply to the counter affidavit, the petitioner has alleged that on 13.08.2013 he has been served with a show cause notice only because of filing of his writ application before this Court on frivolous grounds. In the aforesaid reply to the counter affidavit filed by the petitioner, he has given further example of his being harassed by Dr. Mishra, by way of reduction of his salary. He has also disputed the fact that Dr. Rao is senior to him and, in fact, has claimed that appointment of Dr. Rao as Principal was actually made in the rank of Reader and that the question of seniority of Principal cannot be decided on the basis of the post of pay scale of Reader and Professor.

C.W.J.C. No. 16812 of 2013:

In this writ application the petitioner, Arun Kumar Yadav, has assailed an order passed by Dr. Mishra dated 19.07.2013 whereby and whereunder his assignment as an Additional Registrar has been cancelled and he has been kept waiting for posting and one Dr. Navin Kumar in the Department of Physics of the University has been deputed to work as Controller of Examination by changing his assignment of O.S.D. in the Examination Department. The petitioner has explained that his earlier posting as Additional Registrar was made in terms of the decision of the Syndicate and that could not have been disturbed by Dr. Mishra, the present acting Vice Chancellor.

He has further brought on record a Notification dated 04.06.2013 whereby and whereunder one Dr. Brahmanand Prasad, Professor in the Department of Chemistry, has been made Dean Faculty of Science. According to him yet another decision of removing of Nathan Prasad Yadav and Awadhesh Kumar Yadav from the Examination Department without even consulting the Pro Vice Chancellor, who is over all In-charge of the



Examination Department, is bad. He has also enclosed a document by way of Notification dated 09.07.2013 to show that one Ramesh Prasad Singh, Library Assistant of M. L. T. College, Saharsa, working on deputation in Finance Department of the University and Sri Pramanand Singh, Library Assistant of M.H.M. College, Sonbarsa by way of deputation in University Library and making Ramesh Prasad Singh as In-charge of the University Library without even getting the approval of the statutory transfer and posting Committee constituted by the learned Chancellor, is bad.

According to the petitioner, the appointment of Dr. Sharda Mishra, University Professor in the Department of Sanskrit as Dean Faculty of Humanities in place of Dr. Rajaram Prasad and appointment of Dr. Lalitesh Mishra, an Associate Professor in the Post-Graduate Department of English of the University as Dean Student Welfare and appointment of Dr. Panchanan Ghosh, Principal of M.G.M. Medical College, Kisanganj as Dean Faculty of Medicine as well as transfer of Dr. Narendra Shrivastava, Associate Professor in the Post Graduate Department of Zoology to Purnea College, Purnea as well as deputation of Dr. Kishore Nath Jha on the post of Deputy Registrar, Finance and appointment of Dr. Anil Kant Mishra, University Professor in the Department of Sociology, R. M. College, Saharsa as Dean Faculty of Social Science only within two months after the appointment of Dr. Ratneshwar Chaudhary as Dean Faculty of Social Science, are out and out acts of personal favours being bestowed by Dr. Mishra, the present acting Vice Chancellor on his favorites.

In this case, a counter affidavit has also been filed on behalf of the Dr. Mishra, the present acting Vice Chancellor wherein it has been stated that since the Syndicate, in the meeting held on 24.06.2013, had constituted an enquiry in the functioning of the Examination Department, such decisions for certain transfers and postings were taken by

him. In this counter affidavit, the order of the learned Chancellor, by way of Notification dated 28.04.2013, has also been enclosed to explain that the powers exercised by Dr. Mishra is strictly in keeping with the orders issued by the learned Chancellor.

C.W.J.C. No. 20755 of 2013:

In this writ application the petitioner, Raj Kishore Prasad Sinha, Finance Officer of the University, has questioned the order dated 29.08.2013 whereby and whereunder one Dr. Kishore Nath Jha, Deputy Registrar, has been delegated the power and function of the post of Finance Officer held by the petitioner as also for payment of his arrears and current salary.

The petitioner has explained that he was appointed as a Finance Officer in the University with the recommendation of Bihar Public Service Commission and yet he was humiliated after the advent of Dr. Mishra by way of stripping off the exercise of his statutory power. He has also submitted that there a large scale of financial irregularities has been committed by Dr. Mishra, the present acting Vice Chancellor for which the State Government had constituted an enquiry committee by its order dated 25.06.2013 but the present acting Vice Chancellor had not even allowed the said enquiry committee of the State Government to inspect the record of the University during the course of its visit to the University Headquarters between 08.07.2013 to 11.07.2013.

According to the petitioner, the assignment of duty to Dr. Jata Shankar Yadav, Deputy Registrar-I (Establishment) of the post of Registrar by isolating the function of the Registrar and designating him as a Registrar (Convocation), was wholly an unauthorized act on the part of Dr. Mishra, the present acting Vice Chancellor.

He has also brought on record his protest in capacity of Finance Officer made before Dr. Mishra as with regard to

award of contract to M/s Chaudhary Printing Press, Mohanpur Devi Asthan, Punaichak, Patna, without even publication of the tender notice in the newspaper and award of such contract to the said firm is in complete violation of the Financial Rules.

According to the petitioner, his salary was withheld and reduced because of order passed by Dr. Mishra, the present acting Vice Chancellor. He has also alleged that Dr. Mishra does not reside in the official quarter of the Vice Chancellor in the Campus of the University and uses official vehicle everyday for attending offices from his own residence at Saharsa, which is at the distance of 25 K.M. He has also enclosed a series of orders to show that a number of appointment/deputation has been made by Dr. Mishra on teaching and non-teaching posts.

A counter affidavit has also been filed in this case wherein Dr. Mishra has stated that all these complaints which have been made before this Court by the petitioner is the subject matter of enquiry before the learned Chancellor, wherein the present acting Vice Chancellor has already submitted his comments. As with regard to reduction of emoluments of the petitioner, an explanation has been given that the present acting Vice Chancellor has acted only in terms of the Government decision as such till the Government Auditors deputed in the University would verify the pay fixation of the petitioner; he would not be entitled to claim the salary that he was getting earlier before his (Dr. Mishra) being appointed as acting Vice Chancellor.

In this case also a rejoinder to the counter affidavit has been filed by the petitioner wherein it has been stated that the salary of the petitioner was fixed by a statutory pay fixation Committee and, therefore, Dr. Mishra, in capacity of acting Vice Chancellor, was not entitled to get the pay of the petitioner revised unilaterally.

The petitioner, further by filing a second



supplementary affidavit, has brought on record the documents to show that despite his repeated written request he has not been assigned the work of the post of Finance Officer and he continued to remain without work and without pay. He has further brought on record the copy of the agreement executed by the University with the aforementioned M/s Chaudhary Printing Press and its being objected by three members of the Syndicate namely Mr. Satyajit, Mr. J.Paswan and Mr. Naziruddin, all of whom have stated that such award of contract, without publishing the tender notice in newspaper and completing the prescribed process of purchase, is an unauthorized act on the part of Dr. Mishra, the present acting Vice Chancellor.

Let it be noted that in this writ application, the Director, Higher Education has himself sworn a counter affidavit explaining that the Three Man Committee constituted by the State Government in the Education Department vide order dated 25.06.2013 was not allowed to look into the documents during the course of visit to the University Headquarters between 08.07.2013 to 11.07.2013 and, in fact, the Three Man Committee was not allowed to hold enquiry as per the report submitted by Three Man Committee on 09.07.2013.

Dr. Mishra, the present acting Vice Chancellor, has himself filed reply to the second supplementary affidavit wherein he has stated that the decision to award contract was approved by the Syndicate in its meeting held on 19.11.2013 and the objection of the three members of the Syndicate had no bearing inasmuch as M/s Chaudhary Printing Press was already working in the University since last many years even on much lesser rate which has been given prior to the present contract. It is very significant to note here that not a word has been said by Dr. Mishra, the present acting Vice Chancellor with regard to obstruction caused in the functioning of the Three Man Committee

appointed by the State Government for examining the financial irregularities as has been specifically asserted by the Director, Higher Education in the aforesaid separate counter affidavit filed by him in this case.

C.W.J.C. No. 22732 of 2013:

In this writ application the petitioner, Prithviraj Yaduvanshi, has claimed payment of salary of the post of Librarian in the Central Library of the University in view of his appointment vide Notification of the University dated 11.11.2012.

According to him, the Library Committee, which is the statutory committee of the University, under the Chairmanship of the then regular Vice Chancellor, had taken a decision in the meeting on 05.03.2012 for appointment of the petitioner on the post of Librarian in the Central Library, which was also approved by the Syndicate in the meeting held on 07.10.2012 and the Finance Committee on 21.01.2013 and the Senate on 22.02.2013 respectively and yet Dr. Mishra, the present acting Vice Chancellor, had withheld his payment of salary of the post of Librarian whereas Shambhu Narayan Yadav, Secretary – cum-P.A. to the Vice Chancellor; Rajiv Kumar, Assistant to Registrar and Sudhir Kumar Verma, Clerk to C.D.C. were given the benefit of higher pay scale under the orders of the present acting Vice Chancellor, Dr. Mishra. He has also cited instances of Hemant Kumar, who was initially engaged on daily wage as Typist too has been made Assistant in the regular scale at the instance of Dr. Mishra, the present acting Vice Chancellor.

In this case, no counter affidavit has been filed but when during the pendency of this writ application, on 19.11.2013 the order was passed cancelling his appointment in view of the directions given by the Dr. Mishra, the present acting Vice Chancellor, an amendment petition has been filed wherein it has been stated that the present acting Vice

Chancellor and the Registrar on 18.11.2013 having come to know of filing this writ application had given threatening and had cancelled the appointment of the petitioner on the post of Librarian which as noted above had already been received approval of the Syndicate, Senate and Finance Committee.

C.W.J.C. No. 25043 of 2013:

In this writ application five petitioners, being Dr. Lalitesh Mishra, Dr. Jagarnath Thakur, Dr. Daya Ram Yadav, Dr. Anant Kumar and Dr. Shiv Balak Prasad, have assailed an order dated 26.11.2013 issued under the orders of Dr. Mishra, the present acting Vice Chancellor whereby and whereunder they have been transferred from their respective post held by them in the Post Graduate Departments to the other different colleges without even obtaining the approval of the statutory transfer Committee constituted by the learned Chancellor. According to the petitioners, this was clearly in violation of the order of the learned Chancellor dated 30.06.2008 and had no sanctity in the eye of law.

In this case also, no counter affidavit has been filed as yet.

C.W.J.C. No. 25044 of 2013:

In this writ application the petitioner, Dr. Mohammed Kamal, has assailed an order dated 22.10.2013 whereby and whereunder he has been transferred from the post of Principal, Araria College, Araria to the University Headquarters with a direction him to hand over the charge immediately to one Dr. Udit Kumar Verma a teacher of Hindi Department of Araria College, Araria. The petitioner has explained that he was working as a permanent Principal of Araria College, Araria and yet he was unceremoniously removed by way of punishment under the order of Dr. Mishra, the present acting Vice Chancellor, on a wholly false and frivolous allegation.

In this case also, no counter affidavit has been filed.

As would appear from the nature of grievance in all these writ applications, the entire set up of teachers and administrative functionaries of the University right from the post of Pro Vice Chancellor to Dean Faculty, Registrar, Librarian, Examination Controller, Principals of the constituent colleges and Professors have become aggrieved on account of different decisions and consequential orders of appointment/deputation /transfer made by Dr. R.N.Mishra, present acting Vice Chancellor.

This Court has heard all these writ applications for a number of days. In fact, the present Vice Chancellor initially was not even prepared to file his personal counter affidavit despite serious personal allegations made against him. Good sense has however ultimately prevailed on Dr. Mishra, the present acting Vice Chancellor who has filed counter affidavit in few cases but whatever has been stated by him, does not satisfy this Court inasmuch as exercise of such power by him in capacity of a temporary/acting Vice Chancellor does not prima facie appear to be bona fide much less in the administrative and academic interest of the University. This Court, however, would not like to say anything more because of the order it proposes to pass today.

There is in fact at present a shocking state of affairs prevailing in the B. N. Mandal University, would be an under statement of the day. This Court, having heard these writ applications, has infact come to a prima facie conclusion that things are not well in the University. In view of the fact that this Court, however, does not intend to give any final opinion at this stage as with regard to allegation made in all these eight writ applications, namely, CWJC Nos. 20332 of 2013, 20755 of 2013, 16259 of 2013, 16812 of 2013, 25043 of 2013, 25044 of 2013, 22732 of 2013 and 25316 of 2013 which relate to dispute arising out of the

posts of Pro-Vice-Chancellor, Finance Officer, Dean Faculty of Science, Examination Controller, Transfer of a regular Principal, Dean of Student Welfare, Transfer of a regular Principal as O.S.D. (Promotion) and Chief Librarian, all such allegations will have to be examined by some independent body because as noted above that this Court has noticed that Dr. R.N.Mishra, the present acting Vice Chancellor, in office since 27.04.2013, has invited many uncalled for controversies which were capable of being safely avoided by him in view of his limited assignment to hold the post of Vice Chancellor purely by way of a temporary arrangement till appointment of a regular Vice Chancellor.

The fact that Dr. R.N.Mishra is only functioning as a temporary Vice Chancellor, is itself clear from the Notification issued by the Governor's Secretariat dated 26.04.2013, the relevant portion whereof reads as follows:

"GOVERNOR'S SECRETARIAT, BIHAR RAJ BHAVAN, PATNA-800022 NOTIFICATION Dated 26.04.2013 No. BSU-26/2013-461/GS(I)-By orders of the Hon'ble Supreme Court dated 18.03.2013, 16.04.2013 and 23.04.2013, passed in SLP(C) No. 12409 of 2013, it has been ordered to fill up the vacancies of Vice Chancellor and Pro. Vice Chancellor in the Universities of Bihar (Except Lalit Narayan Mithila University, Darbhanga). In exercise of powers conferred on him under Section 13 of the Bihar State Universities Act, 1976, read with the abovementioned orders passed by the Hon'ble Supreme Court on 18.03.2013, 16.04.2013 and 23.04.2013, passed in SLP(C) No. 12409 of 2013, the Hon'ble Chancellor, Universities of Bihar, is pleased to appoint Dr. R.N.Mishra, University Professor (Zoology), BN Mandal University, Madhepura as the Vice Chancellor of BN Mandal University,

Madhepura and Dr. Jai Prakash Nr.Jha, University Professor (History), BN Mandal University, Madhepura as the Pro Vice Chancellor of BN Mandal University, Madhepura. This is a purely temporary arrangement. By order of Hon'ble Chancellor Sd/- (Sudhir Kumar Rakesh) Principal Secretary to Governor Memo No. BSU-26/2013-461/GS(I) dated 26.04.2013".

As it would be evident, it is the three interim orders of the Apex Court in SLP(C) No. 12409 of 2013 which had created a situation for replacement of the regular Vice Chancellor by making an interim arrangement. In the orders dated 18.03.2013, 16.04.2013 and 23.04.2013 the Apex Court have passed the following order:

"In the premise aforesaid, we are convinced that it is a fit case in which an interim order should be passed by the Court. Accordingly, the operation of notifications dated 9.2.2013 and 19.2.2013 issued by the Governor-cum-Chancellor, Bihar appointing the private respondents as Vice Chancellors and Pro Vice Chancellors of different Universities is stayed and they are restrained from functioning as Vice Chancellors and Pro Vice Chancellors of the concerned Universities. With a view to ensure that functioning of the various Universities is not jeopardized, we direct that as a purely stop gap arrangement, the senior most Deans in the Universities shall discharge the function of the Vice Chancellors and Pro Vice Chancellors....."

The said interim order was further reiterated on 16.04.2013 while adjourning the case to 23.04.2013 and ultimately on 23.04.2013 also, the Apex Court had clarified its earlier aforesaid interim orders by recording as follows:

"On an oral request made by the learned

counsel for the State and the Governor-cum-Chancellor, it is made clear that the Chancellor shall be free to make working arrangements for all the Universities (except Lalit Narayan Mithila University, Darbhanga) keeping in view the provisions of Section 13 of the Bihar State Universities Act, 1976”.

*Thus from reading of the aforementioned three interims orders passed by the Apex Court, it is beyond any shadow of doubt that either the appointment of Dr. R.N.Mishra or for that purpose any other Vice Chancellor/Pro Vice Chancellor was purely by way of a temporary arrangement and in fact when a clear reference has also been made under Section 13 of the Act, nothing is left for speculation that such working arrangement made through the appointment and continuance of the In-charge Vice Chancellor did not vest them with the power of the regular Vice Chancellor. As a matter of fact the Apex Court has finally disposed of the aforesaid SLP(C) No. 12409 of 2013 by its judgment dated 19.08.2013 in the case of **Dr. Ram Tawakya Singh vs. State of Bihar & Ors.**; {2013(3)PLJR (SC) 421 wherein in paragraph 31 while allowing the writ petition of **Dr. Ram Tawakya Singh** (supra) and quashing the appointment of the Vice Chancellors made by the Chancellor on 9.2.2013, 19.2.2013 and 14.3.2013, had given a direction for making appointment on the post of regular Vice Chancellor within a maximum period of four months and had indicated that the persons who were currently holding charge of the offices of Vice Chancellors and Pro Vice Chancellors shall continue to discharge duties of their respective offices till the joining of new appointees.*

This Court, therefore, fails to understand as to how all the powers of a regular Vice Chancellor can be exercised either by Dr. R.N.Mishra, the present acting Vice

Chancellor, brought in office by a Notification dated 26.4.2013 or he could become the LORD of what all he surveyed in capacity of being an In-charge Vice Chancellor. Unfortunately, whatever has been alleged against him would amount to virtually paralyzing the functioning of the entire University inasmuch as all the aforementioned statutory authorities have alleged that despite their appointment being made in terms of the Act and the Statutes, they have been somehow or other restrained/demoralized/obstructed/prevented from functioning on their respective posts.

Having also regard to the fact that at one point of time even the learned Chancellor had himself addressed to the complaint filed by the petitioner in the first case, CWJC No. 20332 of 2013, namely, Dr. Jai Prakash Narayan Jha, and had directed the Registrar of the University to submit a report on the complaint of Dr. Jha, the Pro Vice Chancellor of the University and despite communication from the Chancellor's Secretariat dated 29.10.2013, no report has been submitted as yet, as stated by Mr. Y.V. Giri, learned counsel appearing on behalf of the learned Chancellor, this Court will have no difficulty in coming to a prima facie conclusion that even the learned Chancellor's enquiry has not made any headway till date.

The cup of prevailing anarchy and miseries in the University on account of precipitative actions of Dr. Mishra, in fact, gets further filled when this Court has been informed by Mr. Amar Nath Deo, learned counsel appearing for the State, that the present acting Vice Chancellor, who is in office since 27.04.2013, had also not allowed a Three man Committee appointed by the State Government of Bihar to look into the alleged financial irregularities committed in the regime of Dr. R.N.Mishra, the present acting Vice Chancellor. In fact there is an affidavit filed by the Director,

Higher Education in C.W.J.C. No. 20755 of 2013 wherein he has stated as follows:

“3. That it is humbly stated that a Three Man Committee was constituted by the Education Department vide memo no. 1167 dated 25.06.2013 to look into the allegation of financial irregularities, made by the Finance Officer, B.N.Mandal University (Petitioner).

4. That it is stated that pursuant to the said decision the Joint Secretary being one of the member of the Committee on 02.07.2013, communicated to the Registrar of the respondent University that the team will visit the University between 08.07.2013 to 11.07.2013 and it was further requested that he will ensure the availability of requisite documents (Annexure-1 of the writ application).

5. That it is stated that thereafter as per the schedule communicated to the University, the Three Man Committee visited the University on 08.07.2013 for enquiry but the Committee was not allowed to make enquiry. The Committee on 09.07.2013, submitted its report in the Department.

6. That it is stated and submitted that the Committee was not allowed to make enquiry, which is evident from the said report of the Committee dated 09.07.2013”.

This Court, having also read the report of the Three -Man Committee dated 09.07.2013, enclosed in the counter affidavit of the Director, Higher Education, would come to the conclusion that when an attempt was made by the State Government to look into the financial discipline of the University that also was not allowed by Dr. Mishra the present acting Vice Chancellor.

Let it be noted that Mr. Binod Krishna Jha, learned Senior Counsel for the University in presence of the acting



Vice Chancellor in the Court, had produced a communication dated 08.07.2013 which would go to show that the learned Chancellor was apprised by the present Vice Chancellor as with regard to Three Man Committee of the State being not allowed to function and whole enquiry is awaiting for some sort of direction from the learned Chancellor. This Court however fails to understand such frivolous objections being raised by Dr. Mishra the present acting Vice Chancellor inasmuch as from Sections 52 and 54 of the Bihar State Universities Act, 1976, which ought to have been known by the present acting Vice Chancellor, would not give him any authority to make any obstruction in the functioning of the Three Man Committee of the State Government because the State Government being the financing authority has full powers to look into the state of financial discipline of the University. There was thus no requirement for the State Government or its Three Man Committee to obtain approval of the learned Chancellor so far it relates holding an enquiry in the matter of financial discipline of the University. Thus, it becomes clear that even the State Government and its officials have been deliberately obstructed in holding enquiry into the allegation made against the present acting Vice Chancellor by none else but himself.

In such a situation, when the learned Chancellor as also the State Government have failed to get the matter enquired into only on account of stubborn attitude of Dr. R.N.Mishra, the present acting Vice Chancellor, this Court would constitute a Three Man Enquiry Committee consisting of (1) Mr. Rahul Singh, Secretary, Education Department; (2) Mr. P.K.Thakur, Inspector General of the Vigilance Department and (3) Mr. Atul Prakash, Deputy Accountant General in the office of the Principal Accountant General (Audit), Bihar, who shall hold enquiry as with regard to exercise of entire administrative and/or financial decisions

taken by Dr. R.N.Mishra, the present acting Vice Chancellor ever since of his being in office since 27.04.2013 and till date. The Committee shall also address to the complaint of the petitioners before this Court and having allowed the acting Vice Chancellor to also put his defence in support of the allegations made against him, will submit its report to this Court within a period of three months from the date of receipt of this order.

Pending final disposal of these writ applications, the present Vice Chancellor may continue in office by doing only routine job of the post of Vice Chancellor without taking any policy decision in administrative/financial matters, save and except, with the approval of the statutory committees constituted by the learned Chancellor namely "Statutes on Formation of the Standing Committee" dated 20th December 1986 which enumerates probably each and every aspect relating to the matters of the University. Thus, any decision which has to be urgently taken in the academic and administrative interest of the University till appointment of a regular Vice Chancellor in the University shall be taken only with the prior approval of the Standing Committees enumerated in the Statutes dated 20th December 1986.

It is also made clear that till final disposal of these writ applications and in order to enable the functioning of the Standing Committee enumerated in the Statutes framed by the Chancellor dated 20.12.1986, all such persons, who were holding their office as on 26.04.2013 shall remain in office unless their removal by the acting Vice Chancellor is approved by this Court after submission of the report of the Committee. In other words, all those persons, who were appointed, holding statutory posts or office in the University as on 26.04.2013, under the order of the learned Chancellor, shall form part of the statutory Committee. Any person appointed by the present acting Vice Chancellor on or after 27.04.2013 shall not be entitled to participate in the decision

making process through the Standing Committees enumerated in the Statutes of formation of Standing Committee issued by the Governor's Secretariat in letter no. BSU 25/84-3965-GS (1) dated 20th December, 1986.

Let a copy of this order be given to Mr. Amar Nath Deo, learned counsel for the State.

Put up these cases on 15th January 2014 as a tied up matter at the top of the list."

4. As would be evident this Court had constituted a three-man Enquiry Committee to look into the allegation against the Acting Vice Chancellor but then the report of the three-man Committee for one reason or another has not been submitted as yet. As a matter of fact the order dated 24.2.2014 will go to show that the three-man Committee was not provided the necessary assistance by way of production of record and the Acting Vice Chancellor was trying to obstruct the enquiry. To that extent the order of this Court dated 24.2.2014 being also relevant is quoted hereinbelow:

"Heard learned counsel for the parties.

This court is virtually shocked with the stand that has been taken by the Registrar of the University in his counter affidavit filed today which prima facie goes to show that Mr. R. N. Mishra, the Acting Vice Chancellor has committed contempt of this court by deliberately flouting the directions given by this court in the earlier order dated 2.12.2013.

Before this court, however, would consider the necessity to draw a regular proceeding of contempt against Mr. R. N. Mishra, it would afford him an opportunity to show

cause as to why such proceeding be not drawn as with regard to non-compliance of the afore-mentioned order dated 2.12.2013 in respect of functioning and payment of salary of Raj Kishore Prasad, Finance Officer who is in fact continuing in service under the protection of learned Chancellor's stay order against his removal from service.

Let such show cause reply be filed by Mr. R. N. Mishra, the Acting Vice Chancellor by 10.3.2014.

In the mean time Dr. Mayanand Jha, learned counsel appearing on behalf of Dr. Kishore Nath Jha, the Deputy Registrar (Finance) who is functioning as the Finance Officer despite the order of this court dated 2.12.2013 and, thus, prima facie appear to be the abettor in perpetuating / flouting of the order of this court dated 2.12.2013, shall also file a show cause reply as to why a proceeding of contempt should also not be initiated against him.

At this stage attention of this court has been invited towards a counter affidavit filed in CWJC No. 15698 of 2013, sworn by Dr. Imteyaz Anjum, the Liaison Officer of the University wherein in paragraph no. 8 he has taken a plea that the gratuity and leave encashment of Ramu Ram, the petitioner of CWJC No. 15698 of 2013 cannot be paid because of an order of this court dated 27.11.2013.

This court on perusal of records and specially the order dated 27.11.2013 prima facie does not find any such restraint on payment of pension and leave encashment of any employee, much less Ramu Ram. In such situation this court is also constrained to call upon Dr. Imteyaz Anjum to file a show cause reply as to why a proceeding of contempt should not be initiated against him for misleading this court by filing a false affidavit. Mr. Arvind Kumar, learned counsel who had filed the counter affidavit by Dr. Imteyaz Anjum in afore-mentioned CWJC No. 15698 of 2013 on behalf of respondents 4 and 5 i.e. the Vice Chancellor and the Registrar of the University also prays for and is allowed ten days' time to file such show cause

reply on behalf of Dr. Anjum.

On the next date i.e. 10.3.2014 not only the present Registrar but Mr. R. N. Mishra, the Acting Vice Chancellor, Dr. Imteyaz Anjum, the Liaison Officer and Dr. Kishore Nath Jha, the Deputy Registrar (Finance) shall also remain personally present before this court.

Coming to the next aspect relating to payment of salary to the teaching and non-teaching employees of the University, the counter affidavit sworn and filed by the present Registrar it has been stated that payment of salary has already been made to all the working employees and to that extent he has also enclosed statistics contained in Annexure 'D'. Such regular payment of salary to all the employees will also continue to be made on the basis of the funds being received from the State Government without causing any further impediment subject to the only exception that if there is a valid order for stopping salary of a particular employee, that alone would remain withheld.

Since there is no categorical averment in the counter affidavit filed by the Registrar of the University as with regard to payment of retirement benefit, this court would like to know with regard to payment position of monthly pension to all such retired persons who were actually getting such payment of pension prior to arrival of Dr. R. N. Mishra, the Acting Vice on the scene. It is, however, made clear that if any payment of monthly pension to a person was being made prior to appointment of Dr. Mishra as the Acting Vice Chancellor on 27.4.2013 and he was in receipt of his monthly pension from the funds of the University, the same shall continue to be made without any hindrance. As with regard to remaining pensioners who have retired in the regime of Dr. Mishra, if such payment of monthly pension had already been started, the same shall also not be interrupted but this order and shall not be taken as authority to start payment of pension to such persons whose payment has not yet been approved or paid for

any administrative reason. Let a clear affidavit, therefore, be filed with regard to payment position of monthly pension of such employees.

Pursuant to the earlier order dated 20.12.103 Mr. Amaranth Deo, SC 26, learned counsel for the State having obtained instructions from Education Department has not only produced a letter dated 24.2.2014 of the competent authority of the State Government addressing the three members of the committee, namely, Mr. Rahul Singh, Mr. P. K. Thakur and Mr. Atul Prasad to expedite the submission of the enquiry report but has also orally informed this court that the matter has now been taken at the highest level for an expeditious enquiry against Mr. R. N. Mishra, the present Acting Vice Chancellor of the University.

Though it has taken more than two months for the enquiry committee to begin its work but then keeping in view the impediment that the committee had faced, this court would expect the three men committee constituted by this court in its order dated 20.12.2013 to submit its first interim report on 10.3.2014 by at least looking into the grievances of teaching and non-teaching employee against Mr. R. N. Mishra, the Acting Vice Chancellor. As the three men committee would require assistance at the level of the University head quarter, this court would direct Mr. Kumaresh Prasad Singh, the Registrar of the University to work as the convener of the three men committee. It will be, therefore, the duty of Mr. Singh in capacity of Registrar of the University to ensure that each and every document and information which are required by the committee for its enquiry against Mr. Mishra is made available and at the same time if any further assistance of any kind in furtherance of submission of the enquiry report is required by the three men committee, Mr. Singh will also ensure full cooperation to the committee so that it submits its report to this court expeditiously. If the committee would require to examine individual allegation including those by

the writ petitioners before this court, the Registrar will also issue notice to such of the petitioners and others who may like to place their complaint and the evidence in support of their allegations against Mr. Mishra, the present Acting Vice Chancellor and/or any one abetting Mr. Mishra.

CWJC Nos. 1154 of 2014, 4883 of 2013 and MJC No. 5372 of 2013 :

Mr. Arvind Kumar, learned counsel appearing on behalf of the University prays for and is allowed two weeks time to file counter affidavit / show cause in these cases on behalf of the University.

Put up these cases at the top on 10.3.2014 under the heading 'Admission I'.

Let a copy of this order be given to Mr. Amaranth Deo and Mr. Ranjan Kumar Jha, learned counsel appearing on behalf of the State Government and the Registrar of the University respectively."

5. This Court again on 10.3.2014 had noted that the three-man Committee constituted by this Court for holding enquiry into the acts and omissions of Dr. R.N.Mishra, the Acting Vice Chancellor (respondent no.3) was not complete. The order dated 10.3.2014 reads as follows:

"Heard learned counsel for the parties.

Pursuant to the earlier order of this Court the officials including the present acting Vice Chancellor and Registrar of the University have appeared in person.

Firstly, Mr. Amarnath Deo, learned SC-26 has produced an interim report of the three man Committee. The said report in fact seems to be only very very superficial in nature because the Committee probably has not even been supplied with the relevant records. The Registrar of the University has submitted that in fact the Committee till date



has not sought any record from him even though in the report of the Committee it has been mentioned that further action will be taken by the Committee only on receipt of the records. Probably there is some sort of communication gap between the Committee and the Registrar. This Court therefore would direct the Registrar of the University present in the court room to immediately get in touch with the members of the Committee and ensure that whatever records are required and/or have been directed to be produced by the members of the Committee is made available to the Committee within a period of fifteen days from today.

The members of the Committee on receipt of the records and necessary information solicited from the office of the learned Chancellor will proceed to submit its further interim report within a period of six weeks i.e. on or before 28.04.2014.

As with regard to the explanation of Dr. Kishore Nath Jha that he had no knowledge of the order of restrain dated 20.12.2013 passed by this Court and in view of absence of any proof that Sri Raj Kishore Prasad Sinha, the petitioner in C.W.J.C No. 20755 of 2013 had actually served a copy of the order of this Court upon Dr. Kishore Nath Jha I would give benefit of doubt to Dr. Kishore Nath Jha, for the act done by him at least till he became aware of the order of this Court. This Court, would therefore accept the explanation of Mr. Jha, that he has stopped putting signatures on any cheque after acquiring knowledge of the order of this Court.

At this stage, learned counsel appearing on behalf of the present Finance Officer, Sri Raj Kishore Prasad Sinha, has brought to the notice of this Court the order dated 06.03.2014, whereby and whereunder, Dr. Bipin Kumar Singh has been authorized to put his signature in place of Dr. Kishore Nath Jha on all the cheques in capacity Budget and Accounts Officer.



This Court would like to know from the present acting Vice Chancellor as to when there was an interim order of this Court dated 20.12.2013 restraining him to alter any situation beyond one prevailing as on 27.04.2013 i.e. the date on which he became the acting Vice Chancellor, how and under whose permission he has made this arrangement dated 06.03.2014. Let such an explanation of the acting Vice Chancellor who is present in the Court be filed by 25.04.2014. At the same time, this Court would also like to know from acting Vice Chancellor that when almost all the work allotted for functioning of the University has been made subject matter of standing Committee framed by the learned Chancellor, how many decision after his advent as acting Vice Chancellor has been taken with the approval of such Committee. The acting Vice Chancellor shall be also under an obligation to give a detailed chart of his decisions taken which could be subject matter of one or another Committee and also the reasons for by passing by not even convening the meeting of such Committee. If however, such meeting has been convened, he shall not only give the details thereof but also enclose the proceedings of the Committee with proof to show that the members of the Committee were duly informed for remaining present in the meeting of the Committee.

Since, the present acting Vice Chancellor is not the appointing authority on the post of Finance officer, this Court would restrain the aforementioned Budget cum Accounts Officer Dr. Bipin Kumar Singh to put signature on any of the cheque in place of Finance Officer. The present Finance Officer namely, Sri Raj Kishore Prasad Sinha shall therefore continue to work on the post of Finance Officer till further orders of this Court and he alone shall be the signatory along with Registrar of the University on all the cheques to be issued by the University.

As with regard to the claim of payment of salary, this

Court would direct the Registrar of the University to ensure that all the arrears of salary of Sri Raj Kishore Prasad Sinha, the petitioner from 26.10.2013 till date must be paid to him within a period of one week from today. The payment of salary however will be made in the same pay scale which he was drawing earlier which none the less would remain subject to the final order passed by the learned Chancellor.

The Registrar of the University has also explained by filing a supplementary counter affidavit that retirement benefit of all the retired teaching and non teaching employees have been paid till January, 2014. This Court would accordingly direct that till further orders, the Registrar of the University shall ensure that payment of retirement benefits also continues to all the persons entitled for it without any hindrance created by any person.

As with regard to the compliance of the order of this Court with regard to preparation of the statement of fact dated 30.01.2014 as put in defence by Mr. Imteyaz Anjum, the Liaison Officer, this Court would direct that the present acting Vice Chancellor to explain that under whose direction Mahendra Jha has been made Finance Officer and Kishore Nath Jha has been made Deputy Registrar and as to whether he had approved the aforementioned statement of fact dated 30.01.2014 which has been made part of the defence of Md. Imteyaz Anjum according to which he did not do anything and in fact had sworn his counter affidavit on the basis of approved statement of facts furnished to him signed by the Registrar, Deputy Registrar/Incharge (Legal Cell) and Finance Officer.

Put up these two cases on 29th of April, 2014 under the heading 'Admission-I' at the top.

The personal appearance of the officials of the University, present today is dispensed with till further order of this Court."

6. As a matter of fact on 2.5.2014 the learned counsel for the State had produced not only an interim report of the three-man Committee but also letter of the Registrar of the University speaking a volume against the conduct of Dr. R.N.Mishra, the present Acting Vice Chancellor of B.N.Mandal University. The order of this Court dated 2.5.2014 reads as follows:

“Heard learned counsel for the parties.

Pursuant to the earlier order of this Court dated 10.3.2014, Mr. Amar Nath Deo, learned counsel for the State, has produced not only an interim report of the Three Men Committee but, also a letter of the Registrar of the University addressed to him, which speaks a volume against the conduct of Sri R.N. Mishra the present Acting Vice Chancellor of the B.N. Mandal University.

Prima facie, it appears that the present Acting Vice Chancellor is causing impediment in the functioning of the Three Men Committee and is not allowing even the Registrar of the University to produce the records despite earlier orders of this Court dated 24.2.2014 and 10.3.2014, relevant portion whereof reads as follows:-

Order dated 24.2.2014

"----- Pursuant to the earlier order dated 20.12.103

Mr. Amaranth Deo, SC 26, learned counsel for the State having obtained instructions from Education Department has not only produced a letter dated 24.2.2014 of the competent authority of the State Government addressing the three members of the committee, namely, Mr. Rahul Singh, Mr. P. K. Thakur and Mr. Atul Prasad to expedite the submission of the enquiry report but has also orally informed this court that the matter has now been taken at the highest level for an expeditious enquiry against Mr. R. N. Mishra, the

present Acting Vice Chancellor of the University.

Though it has taken more than two months for the enquiry committee to begin its work but then keeping in view the impediment that the committee had faced, this court would expect the three men committee constituted by this court in its order dated 20.12.2013 to submit its first interim report on 10.3.2014 by at least looking into the grievances of teaching and non-teaching employee against Mr. R. N. Mishra, the Acting Vice Chancellor. As the three men committee would require assistance at the level of the University head quarter, this court would direct Mr. Kumaresh Prasad Singh, the Registrar of the University to work as the convener of the three men committee. It will be, therefore, the duty of Mr. Singh in capacity of Registrar of the University to ensure that each and every document and information which are required by the committee for its enquiry against Mr. Mishra is made available and at the same time if any further assistance of any kind in furtherance of submission of the enquiry report is required by the three men committee, Mr. Singh will also ensure full cooperation to the committee so that it submits its report to this court expeditiously. If the committee would require to examine individual allegation including those by the writ petitioners before this court, the Registrar will also issue notice to such of the petitioners and others who may like to place their complaint and the evidence in support of their allegations against Mr. Mishra, the present Acting Vice Chancellor and/or any one abetting Mr. Mishra.-----"

Order dated 10.3.2014

"-----Firstly, Mr. Amarnath Deo, learned SC-26 has produced an interim report of the three man Committee. The said report in fact seems to be only very very superficial in nature because the Committee probably has not even been supplied with the relevant records. The Registrar of the University has submitted

that in fact the Committee till date has not sought any record from him even though in the report of the Committee it has been mentioned that further action will be taken by the Committee only on receipt of the records. Probably there is some sort of communication gap between the Committee and the Registrar. This Court therefore would direct the Registrar of the University present in the court room to immediately get in touch with the members of the Committee and ensure that whatever records are required and/or have been directed to be produced by the members of the Committee is made available to the Committee within a period of fifteen days from today.

The members of the Committee on receipt of the records and necessary information solicited from the office of the learned Chancellor will proceed to submit its further interim report within a period of six weeks i.e. on or before 28.04.2014.----"

Before this Court would pass an order in this regard, it would only give one opportunity to the learned counsel for Hon'ble Chancellor to apprise this Court as to how long the arrangement on the post of Acting Vice Chancellor is going to be continued, specially when the conduct of this Acting Vice Chancellor is literally paralyzing the functioning of the University in more than one manner as also the functioning of the Three Men Committee, which has to enquire into the allegations made against the Acting Vice Chancellor himself.

Mr. Rajendra Kumar Giri, learned counsel for the Hon'ble Chancellor, prays for and is allowed time till 9.5.2014 to take instruction and file affidavit, if any.

Put up this case as a first case under the heading "For Admission-I" on 12.5.2014.

Let a copy of this order along with the letter of the Registrar as also the interim report of the Three Men Committee be supplied to Mr. Giri for its being brought to the notice of the Hon'ble Chancellor."



7. The audacity and defiance of respondent no.3 in fact knew no limit when it was found by this Court that he had sought to penalize the Registrar for doing needful as directed by this Court by way of producing documents. The order dated 2.5.2014 also contains the direction issued by the office of the Chancellor to the Vice Chancellor, B.N.Mandal University for co-operating in the enquiry entrusted by this Court to the three-man Committee, as a result of all these developments this Court by the order dated 13.5.2014 had stayed functioning of Dr. R.N.Mishra as an Acting Vice Chancellor of B.N.Mandal University. The order dated 13.5.2014 of this Court reads as follows:

“Heard learned counsel for the parties.

Learned counsel for the Registrar has produced a letter dated 05.05.2014 written by Dr. R.N. Mishra describing himself as a Vice Chancellor of B.N. Mandal University, Laloonagar, Madhepura (Bihar) (hereinafter referred to as the University). By the said letter the Registrar of the University has been put to show cause notice on different grounds, which reads as follows:-

"On a visit to net on 04.05.2014, there has been an order dated 02.05.2014 relating to C.W.J.C No. 20332/2013. Therein in the same order, it is mentioned that a letter of the Registrar (i.e., you) addressed to him (i.e. Mr. Amar Nath Deo, the learned counsel for the state) which speaks the volumes against the conduct of Mr. R.N. Mishra. Therein, it is further mentioned that ----- is not allowing even the Registrar of the University to produce the records despite earlier orders of the Court dated 24.2.2014 and 10.3.2014. You did so of course on your own accord without obeying any

consent/order for from the undersigned in dark.

Is there any sanction to you to violate, antagonize, and not to take care of Laws of the University i.e., BSU Act-1976."

Let it be noted that the Registrar of the University has been put to show cause notice as to why a letter addressed by him to Mr. Amar Nath Deo dated 10.04.2014, was handed over to this Court by Mr. Amar Nath Deo, learned counsel for the State along with interim report of the three man Committee dated 28.04.2014.

In the said letter the Registrar of the University in fact had narrated the actions taken by him in detail as with regard to compliance of an order of this Court dated 24.02.2014 for making the records of the University available to the three man Committee constituted by the order of this Court but was obstructed by Dr. R.N. Mishra, the acting Vice Chancellor. The Registrar in his aforesaid letter dated 10.04.2014 having given six specific instance of such obstructions caused by the acting Vice Chancellor in his detailed letter had mentioned as follows:-

"I would like to inform that despites the efforts to comply the directions issued by the Hon'ble High Court and the Education Department, the attitude of the Vice Chancellor as referred above the entire exercise are fuitles it appears that the Vice Chancellor is no longer interested to give his cooperation in enquiry and on the principle of subordination I am helpless to execute works and give full cooperation independently as convener."

As a matter of fact, when the aforementioned three man Committee interim report was brought to the notice of this Court on 02.05.2014, an order was passed by this Court, relevant portion whereof reads as follows:-

"Pursuant to the earlier order of this Court dated 10.3.2014, Mr. Amar Nath Deo, learned counsel for the State, has produced not only an interim report of the Three



Men Committee but, also a letter of the Registrar of the University addressed to him, which speaks a volume against the conduct of Sri R.N. Mishra the present Acting Vice Chancellor of the B.N. Mandal University. Prima facie, it appears that the present Acting Vice Chancellor is causing impediment in the functioning of the Three Men Committee and is not allowing even the Registrar of the University to produce the records despite earlier orders of this Court dated 24.2.2014 and 10.3.2014, relevant portion whereof reads as follows:-

Order dated 24.2.2014

"----- Pursuant to the earlier order dated 20.12.103 Mr. Amaranth Deo, SC 26, learned counsel for the State having obtained instructions from Education Department has not only produced a letter dated 24.2.2014 of the competent authority of the State Government addressing the three members of the committee, namely, Mr. Rahul Singh, Mr. P. K. Thakur and Mr. Atul Prasad to expedite the submission of the enquiry report but has also orally informed this court that the matter has now been taken at the highest level for an expeditious enquiry against Mr. R. N. Mishra, the present Acting Vice Chancellor of the University.

Though it has taken more than two months for the enquiry committee to begin its work but then keeping in view the impediment that the committee had faced, this court would expect the three men committee constituted by this court in its order dated 20.12.2013 to submit its first interim report on 10.3.2014 by at least looking into the grievances of teaching and non-teaching employee against Mr. R. N. Mishra, the Acting Vice Chancellor. As the three men committee would require assistance at the level of the University head quarter, this court would direct Mr. Kumaresh Prasad Singh, the Registrar of the University to work as the convener of the three men committee. It will be, therefore, the duty of Mr. Singh in capacity of Registrar of



the University to ensure that each and every document and information which are required by the committee for its enquiry against Mr. Mishra is made available and at the same time if any further assistance of any kind in furtherance of submission of the enquiry report is required by the three men committee, Mr. Singh will also ensure full cooperation to the committee so that it submits its report to this court expeditiously. If the committee would require to examine individual allegation including those by the writ petitioners before this court, the Registrar will also issue notice to such of the petitioners and others who may like to place their complaint and the evidence in support of their allegations against Mr. Mishra, the present Acting Vice Chancellor and/or any one abetting Mr. Mishra.-----

" Order dated 10.3.2014

"-----Firstly, Mr. Amarnath Deo, learned SC-26 has produced an interim report of the three man Committee. The said report in fact seems to be only very very superficial in nature because the Committee probably has not even been supplied with the relevant records. The Registrar of the University has submitted that in fact the Committee till date has not sought any record from him even though in the report of the Committee it has been mentioned that further action will be taken by the Committee only on receipt of the records. Probably there is some sort of communication gap between the Committee and the Registrar. This Court therefore would direct the Registrar of the University present in the court room to immediately get in touch with the members of the Committee and ensure that whatever records are required and/or have been directed to be produced by the members of the Committee is made available to the Committee within a period of fifteen days from today.

The members of the Committee on receipt of the records and necessary information solicited from the office of the learned Chancellor will proceed to submit its further

interim report within a period of six weeks i.e. on or before 28.04.2014.-----"

Before this Court would pass an order in this regard, it would only give one opportunity to the learned counsel for Hon'ble Chancellor to apprise this Court as to how long the arrangement on the post of Acting Vice Chancellor is going to be continued, specially when the conduct of this Acting Vice Chancellor is literally paralyzing the functioning of the University in more than one manner as also the functioning of the Three Men Committee, which has to enquire into the allegations made against the Acting Vice Chancellor himself.

Mr. Rajendra Kumar Giri, learned counsel for the Hon'ble Chancellor, prays for and is allowed time till 9.5.2014 to take instruction and file affidavit, if any."

Today, Mr. Rajendra Kumar Giri having obtained instructions from Chancellor's Secretariat has produced a copy of letter no. 653 dated 10.05.2014, which reads as follows:-

राज्यपाल सचिवालय, बिहार
राजभवन, पटना-800022

पत्रांक-बी.एन.एम.यू.(एच.सी.)-48/2013 653 /रा0स0(1) दिनांक 10.05.2014
प्रेषक,
जी.एन. अखौरी
विशेष पदाधिकारी (वि0वि0)
सेवा में,
कुलपति
बी.एन. मंडल विश्वविद्यालय
मधेपुरा।
विषय- माननीय उच्च न्यायालय द्वारा सी0डब्लू0जे0सी0 नं 20332/2013 एवं अन्य वादों में दिनांक 24.02.2014 को पारित अंतरिम आदेश का अक्षरशः अनुपालन सुनिश्चित करने के संबंध में।
महोदय,

निदेशानुसार उपर्युक्त विषयक माननीय उच्च न्यायालय द्वारा सी.डब्लू.जे.सी. नं. 20332/2013 एवं अन्य वादों में दिनांक 24.02.2014 को पारित आदेश की छायाप्रति संलग्न करते हुए कहना है कि माननीय कुलाधिपति ने बिहार राज्य विश्वविद्यालय अधिनियम 1976, अद्यतन संशोधित, की धारा 9(1) एवं 9(2) में निहित शक्तियों के अधीन निदेश देने की कृपा की है कि उक्त न्यायादेश में वर्णित त्रिसदस्यीय समिति द्वारा की जा रही जांच में विश्वविद्यालय की ओर से अपेक्षित सहयोग किया जाए। साथ ही, माननीय उच्च न्यायालय, पटना द्वारा पारित उक्त अंतरिम आदेश का अक्षरशः अनुपालन सुनिश्चित करने की दिशा में त्वरित कार्रवाई की जाये एवं की गई कार्रवाई की अद्यतन स्थिति से इस सचिवालय एवं उच्च शिक्षा विभाग को

अवगत कराने का कष्ट किया जाये।

विश्वासभाजन

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(जी. एन. अखौरी)

विशेष पदाधिकारी (वि0वि0)

Having regard to the situation created by Dr. R.N. Mishra, the acting Vice Chancellor of the University in causing impediment in the functioning of the three man Committee as also threatening the Registrar of the University who has been appointed as convener to the three man Committee by this Court, no option is now left to this Court save and except restraining the functioning of Dr. R.N. Mishra in capacity of the acting Vice Chancellor of the University.

Let it be noted that Dr. R.N. Mishra was appointed as acting Vice Chancellor under purely temporary arrangement under the order of the learned Chancellor till appointment of regular Vice Chancellor as directed by the Apex court in S.L.P (c) No. 12409 of 2013. The orders of this Court, however, passed in this case right from 25.10.2013, 27.11.2013, 02.12.2013, 20.12.2013, 21.01.2014, 17.02.2014, 24.02.2014, 10.03.2014 and 02.05.2014 read individually or collectively will leave nothing for speculation that Dr. R.N. Mishra by his deliberate act of omissions and commissions has created innumerable administrative problems as a result whereof the entire functioning of the University has been paralysed. Now, when this Court has found that he is even interfering in the functioning of the three man Committee and is also threatening convener of the Committee as with regard to the compliance of the order of this Court for producing the records before the three man Committee, this Court is satisfied that Dr. R.N. Mishra does not deserve to be continued even as an acting Vice Chancellor or Vice Chancellor as he describes himself, even for a minute. Thus, Dr. R.N. Mishra shall cease to function as a Vice Chancellor of the B.N. Mandal University or even in any other capacity

till further orders of this Court.

Mr. Giri has informed that a regular Vice Chancellor of B.N. Mandal University, in compliance of the order of the Apex Court is going to be appointed by 22nd of May, 2014, but then this Court keeping in view the mayhem which has been created by Dr. R.N. Mishra in capacity of acting Vice Chancellor of the University cannot allow him to function even for a day much less for the remaining days in which the learned Chancellor is expected to appoint regular Vice Chancellor of the University.

Taking this aspect into consideration, this Court would direct that the Vice Chancellor of Tilka Manjhi Bhagalpur University shall in addition to his own duty also function as the Vice Chancellor of B.N. Mandal University till regular Vice Chancellor of B.N. Mandal University is appointed by the learned Chancellor.

As this Court is informed that despite an order of restrain passed on 02.12.2013 an amount of Rs. 36 lacs in the name of retirement benefit has been drawn by Dr. R.N. Mishra and that too by removing the Finance Officer and making some stop gap arrangement for ensuring payment to him contrary to the interim direction issued by this Court. It is hereby also directed that the Registrar of the University with the approval of the successor Vice Chancellor namely, the Vice chancellor of Tilka Manjhi Bhagalpur University would file a self contained report as with regard to entire payment drawn by Dr. R.N. Mishra on or after 02.12.2013. This must be done within a period of two weeks from today. It is also made clear that henceforth no payment of any nature whatsoever shall be made to Dr. R.N. Mishra till further orders of this Court.

Dr. R.N. Mishra is also hereby directed to file his show cause reply as to why a proceeding of contempt should not be initiated against him for violating the orders of this Court dated 02.12.2013, 20.12.2013, 24.02.2014, 10.03.2014

and 02.05.2014. Since, Dr. R.N. Mishra, in this case is already being represented by Mr. Bipin Bihari Singh an advocate of this Court, no fresh notice is required to be issued to him. It is, however, directed that Dr. R.N. Mishra shall personally remain present before this court on 02.06.2014.

Put up this case on 02.06.2014 at the top of the list.

Pending final disposal of this writ application, no action shall be taken against the Registrar of the University in pursuance of the aforementioned show cause notice dated 05.05.2014 and/or for any other official act in exercise of his power including production and furnishing of the documents and/or any other documents required by the three man Committee in capacity of the convener of the Committee, as per the earlier order of this Court dated 24.02.2014.

Let a copy of this order be given to Mr. Rajendra Kumar Giri, learned counsel appearing for the learned Chancellor, Mr. Bipin Bihari Singh, learned counsel appearing on behalf Dr. R.N. Mishra, the acting Vice Chancellor of the B.N. Mandal University, Mr. Amarnath Deo, learned SC No. 26 and Mr. Ranjan Kumar Jha, learned counsel appearing on behalf of the Registrar of the University for its being complied by all concerned in its letter and spirit.”

8. Subsequently learned counsel for Dr. R.N. Mishra had taken a stand that he had filed an appeal before the Division Bench of this Court against the order dated 13.5.2014 and as such, this Court had adjourned the proceedings by recording as follows:

“Heard learned counsel for the parties. Pursuant to the order of this Court dated 13.05.2014, the Ex-Vice Chancellor, Dr. R. N. Mishra has appeared in person. Mr. Bipin Bihari Singh, learned counsel appearing on behalf of

Dr. Mishra, has submitted that an appeal has been filed against the aforementioned order dated 13.05.2014 in the present case and as such hearing of this case be adjourned for a period of four weeks.

Learned counsel for the learned Chancellor has informed this Court that a new Vice Chancellor has been appointed on 23.05.2014 and he has already taken over the charge on 29.05.2014.

Learned counsel for the petitioner has submitted that now the petitioner, who was earlier working as an acting Pro-Vice Chancellor has already been appointed as a full fledged regular Pro-Vice Chancellor.

In view of the above, while further hearing of this writ petition is adjourned for a period of four weeks in order to enable the learned counsel appearing on behalf of Dr. R.N.Mishra to inform this Court as with regard to result of appeal filed by him.

This Court, at the same time, would direct the present Vice Chancellor to ensure full and effective compliance of the earlier order given by this Court as with regard to handing over all the documents and information to the Three-Man Committee appointed by this Court under the order dated 20.12.2013. This Court would also direct the Registrar, who has been made a Nodal Officer, for giving all the documents and information to the Three-Man Committee to ensure that the functioning of the Committee is not interrupted on account of any lack of document and/or information. The Three-Man Committee at the same time is hereby directed to ensure that a report after looking into all the records must be filed within a period of two months from today.

Put up this case after two months under the same heading on 6.8.2014 as a tied up matter when Dr. R.N.Mishra will again remain present in person before this Court.

Let a copy of this order be given to Mr. Amar Nath

Deo, S.C.-26 and Mr. Rama Kant Sharma, learned Senior Counsel appearing on behalf of the Director-General to Vigilance for its being communicated to the three men committee for its compliance in letter and spirit.”

9. Today when this case has been taken up the final report of the three-man Committee has not been produced. Learned counsel for Dr. R.N.Mishra has also not produced any order of the Division Bench interfering with the order dated 13.5.2014. The fact also remains that a new Vice Chancellor of B.N.Mandal University in terms of the direction given by the Apex Court in the case of Dr. Ram Tawakya Singh v. the State of Bihar & ors., reported in 2013(3) PLJR 421 (S.C.) was appointed. Thus, now the question only remains as with regard to holding of an enquiry against the alleged acts, omissions and commissions of the then Acting Vice Chancellor Dr. R.N.Mishra.

10. Today itself this Court in a judgment in the case of Dr. Samir Kumar Sharma v. the State of Bihar & ors., C.W.J.C.No. 18733/2013, had directed for holding of an enquiry against all the actions and orders involving policy decision and/or financial implication taken by all the Acting Vice Chancellors, who were appointed under the order of the Apex Court in the case of Dr. Ram Tawakya Singh (supra). As a matter of fact the reference of this case also has been given by way of elucidation

necessitating such enquiry by the Hon’ble Chancellor.

11. Thus, this writ application is also disposed of with a direction that the entire acts, omissions and commissions, as noticed earlier by this Court and in fact all the policy decisions and/or decisions involving financial implication taken by Dr. R.N.Mishra in capacity of acting Vice Chancellor be enquired into by the Hon’ble Chancellor in exercise of his power under section 9(4) of the Bihar State Universities Act. For this purpose this Court would also direct the present Vice Chancellor and the Registrar of B.N.Mandal University to produce all the necessary records in the Secretariat of the Hon’ble Chancellor so as to enable him to hold his enquiry and take necessary action in accordance with law.

(Mihir Kumar Jha, J)

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