

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.13013 of 2015

- =====
1. Santosh Kamal, S/o Sri Kamal Kishore Choudhary, Resident of near M.S.K.P., Chandwara Banaras Bank Chowk, Police Station - Purani Bazar, District Muzaffarpur.
2. Ravi Kumar Chaturvedi, S/o Sri Uday Haran Chaturvedi, Resident of Krishna Nagar, Kolhua Paigambarpur, Police Station - Ahiapur, District Muzaffarpur.
3. Rishikant, S/o Late Baidnath Singh, Resident of Aam Gola, Orient Club, Police Station kaji Mohammadpur, District Muzaffarpur.
4. Rakesh Kumar Singh, S/o Sri Ram Nath Singh, Resident of Chhuna Bhatti Road, Mali Ghat, Police Station Mithanpura, District Muzaffarpur.
5. Zeba, D/o Md. Safi Hassan, Resident of Khabra Mohalla, Chandwara, Police Station - Mithanpura, District Muzaffarpur.
6. Neeraj Kumar Singh, S/o Sri Bindeshwari Singh, Resident of House No. C/178, Police Colony, Anishabad, Police Station - Gardanibagh, District Patna.
7. Deepak Kumar Singh, S/o Sri Braj Nandan Singh, Resident of Chak Muhammadpur, Pragati Nagar, Bhikhanpur, Police Station - Ahiapur, District Muzaffarpur.
8. Prafful Kumar, S/o Sri Kapileshwar Prasad Singh, Resident of Raj Tank, Laxmipur, Balbhadrapur, Police Station - Laheriasarai, District Darbhanga.
9. Kumari Jyoti, D/o Dr. Gopal Singh, Resident of Quarter No. 301, Ganpati Residence, Saket Bihar, Police Station - Anishabad, District Patna.
10. Archana Kumari, D/o Sri Chandra Deo Narayan, Resident of Guard Home, Aam Gola, Near Railway Gumti, Police Station- Kaji Mohammadpur, District Muzaffarpur.
11. Usha Kumari, D/o Sri Sakal Deo Prasad, Resident of Sahbajpur, Police Station- Ahiapur, District Muzaffarpur.
12. Dinesh Yadav, S/o Late Gonaur Yadav, Resident of Buniyadi Tola, Post Poshuwa, Police Station - Riga, District Sitamarhi.
13. Kiran Kumari, D/o Sri Roop Narayan Prasad Singh, Resident of Balughat, Raj Narayan Singh College, Police Station - Mithanpura, District Muzaffarpur.
14. Deepankar Deo Paswan, S/o Late Lakendra Paswan, Resident of Bhagwanpur, Near Prabhat Tara School, Police Station - Sadar, District Muzaffarpur.
15. Abha Kumari, D/o Sri Surendra Prasad Mehta, Resident of Saadpura, Pokhariya Pir, New Colony, Police Station - Kaji Mohammadpur, District Muzaffarpur.
16. Nishu Kumari, D/o Sri Bhubneshwar Prasad Srivastava, Resident of Saadpura, Pokhariya Pir, New Colony, Police Station - Kaji Mohammadpur, District Muzaffarpur.
17. Manorma Kumari, D/o Sri Ram Niranjan Thakur, Resident of Mooraita, Police Station - Jale, District Darbhanga.
18. Rajesh Kumar, S/o Sri Maheshwar Singh, Resident of Tinpai Tola, Police Station - Athmangola, District Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.

- 
2. The Joint Secretary, Education Department, Govt. of Bihar, Patna.
  3. The Director, Secondary Education, Govt. of Bihar, Patna.
  4. The District Education Officer, Muzaffarpur.
  5. The District Development Commissioner cum Executive Officer, Zila Parishad, Muzaffarpur.
  6. The District Education Officer, Siwan.
  7. The District Development Commissioner cum Executive Officer, Zila Parishad, Siwan.
  8. The District Education Officer, Darbhanga.
  9. The District Development Commissioner cum Executive Officer, Zila Parishad, Darbhanga.
  10. The District Education Officer, Jamui.
  11. The District Development Commissioner cum Executive Officer, Zila Parishad, Jamui.
  12. The District Programme Officer (Education), Jamui.
  13. The Secretary, Human Resources Department, Government of India.

.... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Respondent/s : Mr. ASHOK KUMAR KESHRI

=====

**CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH**

ORAL JUDGMENT

**Date: 17-12-2015**

Heard learned counsel for the petitioner as well as learned counsel for the University.

The petitioners seek quashing of the order dated 01.08.2015 passed by respondent No.5, whereby they have been terminated from the post of Librarian. The petitioners further seek quashing of the letter No. 1363, dated 06.07.2015 issued by respondent No.2, whereby direction has been issued to concerned officials not to make appointment on the post of Librarian on the basis of qualification obtained from University of Technology & Science, Raipur, Chhatisgarh.



The petitioners have got some documents to submit that the University was created under the State Act vide Notification dated 23.08.2003 of Technical and Education Department, Chhatisgarh by the order of Government of Chhatisgarh. In support of their submissions, they brought on record at Annexure- 5, 6 and 7 showing that the University at least functioned up to 01.04.2005.

The case of the petitioners is that they took admission in the year 2003 and passed out in the year 2004. It would be incorrect to disqualify all such students, who had passed out from that institution at least prior to 2005. He has further challenged the impugned order on the ground that the same has been passed without providing an opportunity of hearing to them, though all the petitioners have been appointed on substantive basis in the year 2010.

Learned counsel appearing for the Union of India submits that respondent no.2 may inquire whether during the period the petitioners studied, the University was functional or not.

As the case of the petitioners would succeed on the issue of not being provided an opportunity of hearing, I need not go into the issue of facts whether the institution was functional in the year 2004-05, the years the petitioners claims to pass out. The submission of the petitioners that they have been terminated without issuing a show cause notice, has not been controverted by the State

and in support of the same, they have drawn my attention to the whole text of the order dated 06.07.2015.

In this view of the matter, in absence of show cause notice to the petitioners, the order of termination is not sustainable in law. The impugned order of termination is, accordingly, set aside. The matter is remitted to the respondent no.2 for proceeding afresh in the matter by issuing separate show cause notice to the petitioners.

In the result, this writ application is allowed to the extent indicated above.

**(Samarendra Pratap Singh, J)**

manish/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|