

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5954 of 2015

Dr. Debashis Banerjee, son of late Bishnu Charan Banerjee, resident of Flat No. 401, Raj Villa, PNB Building, Kanti Factory Road, P.S. Kankarbagh, District and Town Patna

.... Petitioner/s

Versus

1. The L.N. Mithila University through its Registrar, Kameshwaranagar, Darbhanga.
2. The Vice-Chancellor, L.N. Mithila University, Kameshwaranagar, Darbhanga
3. The Registrar, L.N. Mithila University, Kameshwaranagar, Darbhanga.
4. The Dean Faculty of Dental Sciences, L.N.Mithila University, Kameshwaranagar, Darbhanga
5. The Director General, Sarjug Dental College & Hospital, Laheriasarai, Darbhanga.
6. The Dental Council India, through its Secretary, Aiwan-E-Galib Marg, Kotla Road, New Delhi-2

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shahi Anugrah Narain, Sr. Adv.

For the Respondent/s : Mr. Alok Kumar Agrawal, Adv.

For the L.N.Mithila University: Mr. Ajay Bihari Sinha, Adv.

For the Dental Council of India: Mr. S.D. Sanjay, Sr. Adv.

For the respondent No.5: Mr. S.B.K. Mangalam, Adv.

For the intervenor : Mr. Nadim Seraj, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 13-05-2015 Heard Mr. Shashi Anugrah Narain, learned Senior counsel for the petitioner, learned counsel for the State, Mr. Ajay Bihari Sinha learned counsel for the L.N. Mithila University, Mr. S.D. Sanjay, learned Senior counsel for the Dental Council of India, Mr. S.B.K. Mangalam, learned counsel for the respondent No.5, Director General, Sarjug Dental College and Hospital, Laheriasarai, Darbhanga and Mr. Nadim Seraj, learned counsel for the intervenors.



The petitioner has questioned an order passed by the Vice Chancellor issued under the signature of the Registrar vide notification bearing memo No. LC-134/15 dated 8.4.2015 whereby the election of the petitioner as a member of the Dental Council of India made by the Senate of the L.N. Mithila University in its meeting held on 23.1.2013 has been stayed. The order of stay is made subject to a final decision on the issue by the Hon'ble Chancellor.

Although extensive arguments have been advanced by the parties but in my opinion this is not the proper stage to enter into the merits of the rival claims for the only issue which arises at the present stage is whether consequent upon the election of the petitioner to the Dental Council of India, there was any jurisdiction vested in the Vice Chancellor to stay the election. It is not in dispute rather admitted that the election to the Dental Council of India is governed by the Dentist Act, 1948 and Section 3 thereof provides for constitution and composition of Council. The petitioner claims his election under Section 3(d) thereof.

The election has been stayed on a complaint made by the intervenor and the matter has been referred to the Hon'ble Chancellor for final decision in the matter.

The petitioner questions the order on the anvil that there is



no power vested in the Vice Chancellor either under the Bihar State Universities Act, 1976 or under the Dentist Act, 1948, to stay an election. In support of his contention Mr. Narain has referred to Section 5 of the Dentist Act which mandates that all disputes arising of an election to the Dental Council of India, is to be referred to the Central Government whose decision is to be final. He thus submits that once the election of the petitioner to the Dental Council of India is not in dispute, any order adversely effecting the election can only be passed by the Central Government and none else.

Although Mr. Ajay Bihari Sinha and Mr. Nadim Seraj learned counsel for the petitioner and the intervenor respectively have tried to take refuge under Section 10(13) of the Bihar State Universities Act, 1976 to justify the action of the Vice Chancellor but in my opinion the exercise of jurisdiction by the Vice Chancellor is per se illegal for no such power has been conferred in the Vice Chancellor under Bihar State University Act, 1976, to stay an election to the Dental Council of India which undisputedly is governed by the Dentist Act, 1948 and any dispute arising therefrom is to be raised under Section 5 thereof before the Central Government. There cannot be any dispute on the legal position which is self eloquent.

In view of the circumstances where the remedy for raising any election dispute lies before the Central Government, the Vice Chancellor cannot be permitted to usurp such jurisdiction.

In consequence the Notification dated 8.4.2015 present at Annexure-12 is held per se illegal and is accordingly set aside. The writ petition is allowed. The aggrieved shall be at liberty to raise their grievance before the appropriate forum in accordance with law.

Interlocutory application stands disposed of.

(Jyoti Saran, J)

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