

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.8886 of 2015**

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1. The Governing Body, Degree College, Supaul Laloo Nagar, Madhepura, Bihar, duly constituted under Section 60 of the Bihar Universities Act, 1976 and the relevant Statute, through its Secretary.
  2. Dr. Ram Prasad Yadav, Son of Late Bhaiya Lal Yadav, resident of Mohalla-Lohianagar, Ward No. 9, P.O. Supaul District- Supaul, at present Secretary of the Governing Body, Degree College, Supaul

.... .... Petitioners

Versus

1. B.N. Mandal University, through its Registrar, Madhepura
2. The Vice Chancellor, B.N. Mandal University, Madhepura
3. The Registrar, B.N. Mandal University, Madhepura

..... **Respondent 1<sup>st</sup> Set.**

4. Bhupendra Prasad Yadav, Lecturer, Hindi Department, Degree College, Supaul, at present a Member of Ad-Hoc Committee, Degree College, Supaul, as Professor- Incharge.
5. Anirudh Prasad Yadav, M.L.A., Nirmali, Supaul at present a Member of Ad-Hoc Committee, Degree College, Supaul, as Public Representative.
6. Dr. Yogendra Prasad Yadav, Associate Professor, Department of Chemistry, T.P. College, Madhepura, at present a Member of Ad-Hoc Committee, Degree College, Supaul, as University Representative
7. Sub Divisional Officer, Supaul, at present a Member of Ad-Hoc Committee, Degree College, Supaul, as Administrative Officer.

.... .... **Respondents 2<sup>nd</sup> Set.**

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**Appearance :**

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| For the Petitioner/s       | : | Mr. Y.V. Giri, Sr. Advocate      |
|                            |   | Mr. U.C. Prasad, Advocate        |
| For the University         | : | Mr. Mithilesh Kr. Rai, Advocate  |
| For the Respondent No. 4 : |   | Mr. Sunil Kumar Thakur, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**

**ORAL JUDGMENT**

**Date: 01-10-2015**

Heard the parties.

The petitioners claim themselves to be the Governing Body, which was duly constituted by the University under exercise of power under Section 60 of Bihar Universities Act, 1976. They are



aggrieved because the regular Governing Body has been dissolved and an Ad hoc Five-Members Committee was constituted vide notification dated 25.04.2015 (Annexure-13 to the writ application) under the signature of the Registrar of the University i.e. B.N. Mandal University. Soon thereafter Annexure-13 dated 25.04.2015 was issued within a week yet another notification dated 08.05.2015 was issued (Annexure-13/A) and the Ad hoc Committee was reduced to four from five. The petitioners are seeking quashing of these notifications of the University on the grounds urged and pleaded.

Submission of learned Senior Counsel for the petitioners is that the Act especially Section 60 of the Bihar Universities Act lays down the manner in which a Governing Body is required to be put in place and how it is required to be constituted. In addition to that even a Statute which is Statute no. 32 has been notified on 12.02.1982 regarding management and constitution of Governing Body.

By reading the two provisions, it is the stand of learned Senior Counsel that the legislative intent is to have a regular Governing Body, Ad hoc Committee is an exception not the rule. The Governing Body has a life of three years but if it is required to be reconstituted then notice is required to be issued indicating the reasons by the University before such reconstitution can be effected.

None of the statutory provision contained in Section- 60

as well as of Statute-32 has been followed in the present writ application before issuance of Annexures-13 and 13/A.

The regular Governing Body has been dismantled or superseded which is not envisaged in terms of the provisions of Section 60 or Statute-32. Only when a regular Governing Body is not in place that an Ad hoc Committee can be made by the Vice Chancellor but i.e. an exception not a rule. The law does not visualize that a regular Governing Body will be dissolved and an Ad hoc Committee will be put In-charge of the affairs for one reason or the other.

Learned Senior Counsel has brought certain other materials on record to indicate that the decision of the University has been taken for extraneous reasons, if not instigated by certain letters written by a Minister of the Government which triggered the entire exercise and which compelled the University to issue the impugned orders, constituting the Ad hoc Committee by the two notifications.

Counter affidavit of the private respondent no. 4 as well as the University has been filed. A series of explanations have been offered as to the reason which led to issuance of the impugned orders reconstituting or putting in place of an Ad hoc Committee to run the affairs of the Committee.

None of the affidavits are in a position to indicate as to

why decisions at the level of the University have been taken contrary to the provisions which are laid down in Section 60 or Statute-32.

One thing is evident that this institution is suffering because there is a war on between vested interest to capture the management by hook or by crook. This Court is not surprised because ever since the State Government has started guarding such institution after change in its policy of granting financial support, such war in educational institutions have started and vested interests are obviously at work to ensure that the management and the financial control of such institution are in their hands, not with the object of welfare of the institution, but for personal gain etc.

Bereft of other controversies and confining the issue to the legality of the two decisions, which are under challenge, the Court after considering the factual position comes to a considered opinion that a backbone of enquiry report obtained by the University has formed the basis for issuance of Annexure-13 and 13/A. No notice of any kind was issued to the regularly constituted Managing Committee which was necessitated for creation of an Ad hoc Committee and the law being what it is duly laid down in the case of ***Governing Body of Somri Hari Nath Mahila College and another v. Magadh University, Bodh Gaya, Gaya and others, reported in 1990 (1) P.L.J.R. 249,*** supports the stand taken by the learned Senior Counsel. This Bench

had an occasion to deal with a similar matter relating to B.N. Mandal University itself in the case of *The Governing Body, Satendra Narayan Singh Mahila College, Mamtapuri v. Bhupendra Narayan Mandal University and others*, which was C.W.J.C. No. 22132 of 2012 decided on 29.04.2014.

The Ad hoc Committee, therefore, constituted in terms of Annexures-13 and 13/A is required to be quashed. The writ application is allowed. The Vice Chancellor of the University is duty bound to constitute a regular Governing Body by following the Act and the Statute, which have been enumerated in the earlier part of the order.

The writ is allowed. Annexure-13 and 13/A stand quashed.

**(Ajay Kumar Tripathi, J)**

Vats/-

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