

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1420 of 2016

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1. Arjun Prasad Yadav Son of Late Hira Lal Rai resident of village -
Rahimpur, Post Chintamanganj, P.S. Garkha, District - Saran

.... Appellant

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna
2. The Principal Secretary, Higher Education Department, Govt. of Bihar,
Patna
3. The Chancellor of Jai Prakash University, Bihar, Patna
4. The Jai Prakash University through its Registrar, Chapra
5. The Vice Chancellor, Jai Prakash University, Chapra
6. The Pro - Vice Chancellor, Jai Prakash University, Chapra
7. The Registrar, Jai Prakash University, Chapra
8. Dr. Ashok Kumar, the Present Registrar of Jai Prakash University,
Chapra
9. The Proctor, Jai Prakash University, Chapra
10. Shridhar Das Son of Late Salik Rai, the Secretary of Devraha Baba
Shridhar Das Degree College, Rampur (Kadna) Gorkha, Chapra
11. Niranjan Kumar Son of Late Bharat Prasad, the Principal of Devraha
Baba Shridhar Das Degree College College, Rampur (Kadna), Garkha,
Chapra
.... Respondents
- =====

Appearance :

For the Appellant/s : Mr. Bindhyachal Singh, Advocate
Mr. Ram Binod Singh, Advocate
For the State : Mr. Sarvesh Kumar Singh, AAG 13
Mrs. Sunita Kumari, AC to AAG 13
For the University : Mr. Anjani Kumar, Sr. Advocate
Mr. Hans Raj, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

**HONOURABLE MR. JUSTICE SAMARENDRA PRATAP
SINGH**

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date-26-08-2016

The instant letters patent appeal is preferred by the
appellant (respondent No.10 of writ petition) against order, dated
29.01.2016 passed in C.W.J.C. No. 1593 of 2016, whereby a
learned Single Judge has restrained him from exercising any
power or authority dealing with finances of the institution and no
authorization for payment of any kind will be entertained by any
Bank issued by him after issuance of notification, dated 9.1.2016,

till further orders.

2. The appellant has raised the grievance that the impugned order has been passed without affording any opportunity of hearing to him, apart from the fact that the writ petitioners have suppressed the vital facts in order to secure relief against the appellant.

3. The facts of the case are in narrow compass. The Registrar, Jai Prakash University, Chapra (hereinafter referred to as 'the University') vide notification, dated 9.1.2016 constituted Governing body of Sri Deoraha Baba Shridhar Das Degree College, Rampur, Kadna, Garkha, Saran and appointed the appellant (respondent No.10 of the writ petition) to work as Incharge Principal temporarily. The writ petitioners challenged both, the constitution of governing body as well as the appointment of the appellant, as temporary Principal of the College by filing writ petition bearing C.W.J.C. No. 1593 of 2016. The main ground of challenge to the appointment of the appellant was pendency of the criminal case bearing Garkha P.S. Case No. 131 of 2014 for alleged embezzlement of fund and a Certificate Case No. 1 of 2015 under section 5 of the Public Demands Recovery Act.

4. The case of the appellant is that both the grounds, taken by the writ petitioner, were baseless and mischievous with a view



to deprive the appellant from functioning as Incharge Principal of the college. In support of his submission, the appellant states that the police, upon investigation, has submitted Final Form No.192 of 2015 on 31.7.2015, showing the case to be false against him. So far Certificate Case No. 1/2014-15 under Section 5 of the Public Demands Recovery Act is concerned, the same was dismissed, on 14.8.2015, with an observation that it was not maintainable against the appellant. Further-more, pursuant to the direction and fall out of the order, dated 24.10.2013 passed in C.W.J.C. No.17861 of 2013, a detailed enquiry on alleged financial irregularity was made by a three men committee, followed up by auditing of the accounts by a firm of Chartered Accountant, which did not detect any financial irregularity.

5. We have heard learned counsel for the parties and perused the materials on record.

6. As the writ petition is still pending consideration, we would restrain ourselves from making any observation on the merit of the case lest it may prejudice either party. However, the other submission of the appellant to the extent that the impugned order, dated 29.1.2016, is being interpreted as authorizing the writ petitioners to operate Bank Account, has substance. On a close look at the order, we find that though the impugned order restrained the writ petitioners from exercising any power or

authority dealing with the finances of the institution, there is nothing in the order to read the same as having authorized the writ petitioners or anyone else to deal with the finances of the institution. The order of the Writ Court cannot be used in any manner than one clarified above.

7. However, it would be equally disastrous if no one is authorized to deal with the finances of the institution as it may deny legitimate expenditure for running the establishment and for payment of teaching and non-teaching staffs, which may jeopardize the teaching and bring the educational system itself to a grinding halt.

8. Situated thus and in the interest of justice, we are of the considered view that till the time the matter is not finally decided by the Writ Court, the Registrar of the University would deal with all matters involving financial implication of the Institution.

9. With the aforesaid observations and directions, this appeal stands disposed of.

(I.A. Ansari, CJ)

(Samarendra Pratap Singh, J)

Md. Jamaluddin Khan

AFR/NAFR		
CAV DATE		
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