

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1862 of 2016
IN
Civil Writ Jurisdiction Case No. 4074 of 2016**

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Jai Ram Singh son of Late Balmiki Singh, Resident of Village- Mehus, P.O. + P.S.-
Mehus, District- Sheikhpura

.... Appellant

Versus

1. The State of Bihar
 2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
 3. The Vice Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur.
 4. The Registrar, Tilka Manjhi Bhagalpur University, Bhagalpur.
 5. Tilka Manjhi Bhagalpur University, Bhagalpur through its Registrar.
 6. The Principal, Sundar Singh College, Mehus, Sheikhpura.
 7. The Secretary, Governing Body, Sundar Singh College, Mehus, Sheikhpura.
- Respondents
- =====

Appearance :

For the Appellant	:	Mr. Md. Imteyaz Ahmad, Mr. Ajay Kumar Thakur Mr. Ajit Kumar, Advocates.
For the Respondents	:	Mr. P.K. Shahi, Sr. Advocate. Mr. Anil Kumar Singh, Advocate.
For the University	:	Ms. Mallika Majumdar, Advocate.
For the State	:	Mr. S.D. Yadav, AAG 9

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 23-11-2016

Heard learned counsel for the appellant and learned
counsel for the respondents.

2. The challenge in the present Letters Patent Appeal is
to an order passed by the learned Single Bench on 1st of September,
2016 in CWJC No. 4074 of 2016 whereby the nomination of District
Education Officer as Government Official in the Governing Body of
an affiliated college was not interfered with.

3. Section 60 of the Bihar State Universities Act, 1976 (hereinafter referred to as “the Act”) deals with the constitution of the Governing Body. Clause (iv) of sub-section (1) of Section 60 of the Act provides that an officer of the State Government posted in the district, being not below the rank of a Sub-Divisional Magistrate, will be nominated by the Vice Chancellor. The relevant clause reads as follows:-

“60. The Governing body.- (1) There shall be a governing body for the management and administration of each affiliated College other than a College owned and maintained by the State Government or a College established and administered by a minority community on the grounds of religion or language or an affiliated technical or medical college.

It shall consist of following members-

- (i) Principal of the College- Ex-Officio,
- (ii) a member elected by and from amongst the teachers of the College,
- (iii) a representative of the University nominated by the Vice Chancellor
- (iv) an officer of the State Government posted in the district, being not below the rank of a sub-divisional magistrate, nominated by the Vice Chancellor.”

4. The learned Single Bench has recorded a finding that the District Education Officer is an authority higher to the Sub-Divisional Magistrate and therefore he has been validly nominated. Aggrieved against the said order, the writ applicant is before this

Court in the Letters Patent Appeal.

5. The argument raised is that only an officer of the administration can be nominated as a Member of the Governing Body and not from the other departments of the State Government or from the education department. It is argued that if an officer from the other departments is nominated even then the officer of the Animal and Husbandry Department could well be nominated by the Vice Chancellor which is against the spirit of the provisions of Section 60 (1) (iv) of the Act.

6. The other argument is that the District Education Officer was nominated as the Member of the Governing Body after resignation of the Deputy Development Commissioner and, therefore, such vacancy has to be ratified by the Syndicate of the University. Since the Syndicate has not ratified the resignation or the vacancy, therefore, there could not be any nomination of a representative of the Government to the Governing Body.

7. We do not find any merit in any of the arguments raised by learned counsel for the appellant. The provision is clear and categorical that an officer of the State Government posted in the district can be nominated as a Member of the Governing Body. The only condition is that he should not be below the rank of Sub-Divisional Magistrate. If the Vice Chancellor finds suitable then an official of the Animal and Husbandry Department could well be

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nominated but in the present case, it is the District Education Officer, an officer concerned with education in the district, who has been nominated and is the most suitable member in the Governing Body of an affiliated College. It is not disputed that District Education Officer is above the rank of Sub-Divisional Magistrate and, thus, nomination of the District Education Officer satisfies the conditions of Section 60(1)(iv) of the Act.

8. In respect of the fact that the vacancy was not ratified by the Syndicate, learned counsel for the appellant fairly concedes that no such fact was raised in the writ petition or such fact is asserted before the learned Single Bench. Whether there is any ratification by the Syndicate or there is even a requirement of ratification by the Syndicate is a question of fact. If such fact has not been asserted in the writ petition, the appellant cannot be permitted to raise such an argument based on such fact at this stage.

9. Considering the above, the present Letters Patent Appeal is accordingly dismissed.

(Hemant Gupta, ACJ)

B.T/Ibrar

(Vikash Jain, J)

AFR/NAFR	AFR
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