

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5387 of 2016

=====

Ravi Gopal Singh S/o- Late Lalta Baksh Singh, R/o- 633/04, New Panchwati,
Kamta Chihut, Lucknow, Uttar Pradesh at present resident of 303, Block-G,
Mundeshwari, Enclave Near Passport Seva Kendra, Khajpura, P.S.- Rajiv Nagar,
Patna

.... Petitioner

Versus

1. The Chancellor of Universities, Bihar, Patna
2. The Vice Chancellor, Bihar Agriculture University, Sabour, Bhagalpur
3. The Director Administration, Bihar Agriculture University, Sabour, Bhagalpur
4. The Deputy Director Administration, Bihar Agriculture University, Sabour, Bhagalpur
5. The Officer on Special Duty (Judl.), Governor's Secretariat, Bihar Raj Bhavan, Patna

.... Respondents

=====

Appearance :

For the Petitioner/s	:	Mr. P.K.Shahi, Sr.Adv. Mr. Mukesh Kumar, Adv.
For the BAU	:	Mr. Chandra Mohan Singh, Adv.
For the Chancellor	:	Mr. Rajendra Kr. Giri, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 16-09-2016

Petitioner is seeking quashing of the letter dated 7.10.2015 issued from the Secretariat of Hon'ble Chancellor, by virtue of which permission granted by the Vice Chancellor of Bihar Agriculture University, Sabour to the petitioner to grant lien so that he can pursue his assignment in Mexico for a period of three years has been rejected. Because of the said decision of the Hon'ble Chancellor the petitioner is in a piquant situation because he has to either return and join the University or else he may choose to continue with his assignment in Mexico which will have consequences.



Submission of the learned counsel for the petitioner is that the decision to grant lien to the petitioner was taken after he was selected and given an offer by the establishment in Mexico. The terms of appointment indicates that the petitioner has not accepted the assignment as a part of exercise for further and higher studies but is on employment under the said authority, having a commitment of three years.

No doubt, the Board of Management made a recommendation in favour of the petitioner based on which the Vice Chancellor of the Bihar Agriculture University allowed lien to the petitioner but when approval was sought at the level of the Hon'ble Chancellor, Annexure 1 has been issued.

From the pleadings and materials, which have emerged in the writ application, it seems that the Vice Chancellor, who was working in an officiating capacity and had a clear directive to perform day to day responsibilities, had exceeded his power and authority by taking such vital decisions. This emerges from a reading of Annexure 1. Further looking into the pleadings indicates that the whole decision seems to have been taken in a short and swift manner by giving a go bye to the requirements and directives with regard to foreign assignment both relating to the circulars of the State of Bihar and the directives which have been issued by the Ministry of External Affairs,

Govt. of India addressed to all the Chief Secretaries of the State and the Union of India.

The Court will not go into the niceties of the arguments which have been placed on behalf of the learned Senior counsel, representing the petitioner, because of the two reasons- one, that proper procedure, scrutiny and approval has not been taken either of the Government of Bihar or the Govt. of India. Secondly, checks and balances are required in such decision making for many reasons and if they have not been followed by the Vice Chancellor of the University, who was in an officiating capacity and he chose to take a serious policy decision having implications to the institution by ignoring and bypassing the requirement of approval, then obviously, an intervention was required at the level of the Hon'ble Chancellor. The rushed manner in which lien has been granted to the petitioner obviously does not reflect well on the Vice Chancellor. The Court does not want to investigate as to the reasons but since proper procedure has not been followed and the petitioner has been given the benefit unilaterally at the level of the Vice Chancellor, the Court would not like to interfere with the decision of the Hon'ble Chancellor dated 7.10.2015 especially if it is in the interest of the University and good administration.

Since it is a case of employment which has been accepted by

the petitioner from a foreign country and institution, therefore, it is left to the wisdom of the petitioner to choose whether he would like to continue serving the foreign master or would like to get back to his original employer, which is the University in question.

No interference, therefore, is warranted with the impugned Annexure 1. Writ application is dismissed.

(Ajay Kumar Tripathi, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2016
Transmission Date	NA