

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21601 of 2014

Samrendra Kumar Sudhansu, son of Mahendra Jha Pankaj, Resident of village -
Harilochanpur, P.S. Sarairanjan, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary Human Resource Development Department, Patna
2. The Governor of Bihar, through the Principal Secretary of the Governor House, Patna
3. The Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
4. The Registrar of Kameshwar Singh Darbhanga Sanskrit University, Darbhanga

.... Respondents

Appearance:

For the Petitioner/s : Mr. Sanjeev kumar Jha, Advocate.

For the Respondent/s : Mr. P. N. Shahi, AAG-10.

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 21-11-2016

The petitioner has invoked the public interest writ jurisdiction of this Court to challenge the alleged illegal appointments made on various posts as lecturers/ Principals/ Professors in Kameshwar Singh Sanskrit University, Darbhanga (for short “the University”) after 2001 without following and adopting the proper norms and letters issued by the Government of Bihar from time to time. The prayer is also to take legal action against the responsible persons who had committed such illegalities in the University and to recover money from the all mis-utilized

funds/grants/illegal appointments after 2001 specifically from 2007 to 2013.

2. Learned counsel for the petitioner relies upon the report submitted by the Vice Chancellor of the University to the Chancellor of the University on 12.11.2013 admitting various illegalities in the process of appointment and also mis-utilization of the funds.

3. The question is as to whether public interest litigation at the instance of the petitioner challenging the alleged illegal appointments would be maintainable. What is asserted by the petitioner is that he is not directly or indirectly interested in the subject matter, whereas he has raised issues of common interest of the society; therefore, public interest writ is maintainable by him.

4. The Supreme Court, way back in 1999, in a judgment reported as (1998) 7 SCC 273 (Dr. Duryodhan Sahu and Ors. v. Jitendra Kumar Mishra and Ors.), has held that in service matters, public interest litigation should not be entertained. Such judgment was reiterated in later judgment in the case of Neetu Vs. State of Punjab and Ors. (2007) 10 SCC 714. The view stands reiterated in another judgment reported as Madan Lal v. High Court of J&K and Ors., (2014) 15 SCC 308, wherein the Court held as under:-

“9. That apart time and again this Court repeatedly held that in service matters, public interest litigation is not maintainable. We can profitably refer to a recent decision reported in *Hari Bansh Lal v. Sahodar Prasad Mahto*, (2010) 9 SCC 655 :(2010) 2 SCC (L&S) 771. Paras 14 and 15 are relevant which are as under: (SCC pp. 660-61)

“14. In *Ashok Kumar Pandey v. State of W.B.*, (2004) 3 SCC 349: (2011) 1 SCC (Cri) 865, this Court held thus: (SCC pp. 358-59, para 16)

‘16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilised for disposal of genuine cases. Though in *Duryodhan Sahu v. Jitendra Kumar Mishra*, (1998) 7 SCC 273:1998 SCC (L&S) 1802, this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as

aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.’

The same principles have been reiterated in the subsequent decisions, namely, *B. Singh v. Union of India*, (2004) 3 SCC 363; (2007) 1 SCC (L&S) 616, *Dattaraj Nathuji Thaware v. State of Maharashtra*, (2005) 1 SCC 590 and *Gurpal Singh v. State of Punjab*, (2005) 5 SCC 136: 2005 SCC (L&S) 636.”

5. The petitioner seems to be busy body. He also has no interest with the affairs of University and has no credentials in the field of education. There is no other special interest disclosed by the petitioner, which made him to invoke writ jurisdiction of this Court. Such a person, who has no credentials to take up the public causes and totally unrelated to the field of education, cannot be permitted to invoke the public interest writ jurisdiction of this Court for collateral purposes.

6. In fact, in the counter affidavit, it has been asserted that the Legislative Council of the State has constituted an Enquiry Committee on the alleged irregularities committed in the appointments of Principals in the colleges of different universities including Magadh University in pursuance of the motion call attention raised by the members of the Legislative Council.

7. It is also pointed out that a show cause notice was issued to the then Vice-chancellor of the said University in connection with the appointment in violation of the Rules and

Regulations.

8. The fact is that the Chancellor and Vice-chancellor of the University are aware of the illegalities committed in the functioning of the University from time to time. We are sure that the authorities will take appropriate follow up action.

9. Thus, it appears that the respondents are aware of the alleged illegalities and are taking remedial steps, therefore, the public interest litigation at the instance of the petitioner does not seem to be *bonafide*.

10. Consequently, present writ application is dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Mishra

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	