

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1390 of 2013

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1. The State of Bihar
 2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
 3. The Director, Higher Education, Human Resources Development Department, Government of Bihar, Patna.
 4. The Vice- Chancellor, Veer Kunwar Singh University, Ara.
 5. The Registrar, Veer Kunwar Singh University, Ara.

.... Appellants

Versus

1. Sahid Alim, S/O Late Dr. Abdul Kalif Hafizee, resident of Old Police Line Ara, P.S- Ara, District- Bhojpur, presently working as the Secretary, Governing Body of Al Hafeez College (Minority), Ara.

2. Rukhsana Begum W/O Dr. S.M. Ali Khan Resident of Khwaja Kalan, P.S- Khawaja Kalan (Patna City), District- Patna, presently working as the Principal Al Hafeez College, Ara.

3. Md. Ekramuddin S/O Late Md. Salim resident of Dr. Mahmood Shah Lane, Bank Colony, Dariyapur, Ps- Pirbahore, District- Patna, presently working as the Head of Department, Urdu Al Hafeez College, Ara.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Vivek Prasad, G.P.18

For the Respondent/s : Mr. Rajesh Mohan, Advocate

Mr. Brishketu Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-02-2016

The State is aggrieved by the judgment and
order dated 29.11.2012 passed by the learned Single Judge in
C.W.J.C. No. 12711/2011. The private respondent to the
appeal have appeared and pleadings are complete. Let it be

recorded that while condoning the delay in filing the appeal we had stayed the judgment under appeal. There is an interlocutory application filed by the contesting respondent, who was the writ petitioner for vacating the stay.

Instead of dealing with the matter in a piecemeal manner, with consent of the parties, we have heard the matter at length for final disposal at this stage itself.

The aggrieved portion of the order of learned Single Judge, as pointed out by the State, is as follows:

“8. Upon hearing learned counsel for the parties and the statements made in the petition, this Court finds that not giving full grant in aid to the present Minority Institution in question amounts to discrimination on the part of the State Government and this court holds that the present Minority Institution namely Al-Hafeez College is entitled for full grant in aid for payment of employees on the post created by the Governing Body prior to the resolution of the State Government dated 19.10.1982. Therefore, the Principal Secretary of the Human Resources Development Department, (Higher Education) of the State Government is directed to grant full grant



in aid to the College for payment of current as well as arrears of salary to the employees of the College who have been appointed by the Governing Body of the instant Minority Institution. The release of grant in aid from their date of appointment shall be made within one month from the date of receipt of the order.”

Having considered the matter, in our view, on the face of it, the relief as granted by the learned Single Judge was not only beyond the pleadings but was clearly not available. We may note that the learned Single Judge has referred two cases of two other minority institutions as if they were comparable cases being Soghra College, Biharsharif, Nalanda and Allama Iqbal College, Biharsharif, Nalanda. The respondents (writ petitioners) have filed Interlocutory Application No. 1002/2016, in which they have annexed Annexure –B, a comparative statement of the three institutions i.e. Soghra College, Biharsharif, Nalanda, Allama Iqbal College, Biharsharif, Nalanda and writ petitioner’s College i.e. Al-Hafeez College, Ara.

In our view, there is basic distinction between the three. Firstly, so far as Allama Iqbal College, Biharsharif,



Nalanda is concerned, it was granted the deficit grant status as far back as on 19.09.1998, immediately after it got permanent affiliation w.e.f. 01.01.1998. So far as the writ petitioner's College is concerned, it got permanent affiliation only on 31.05.2011. This becomes important, inasmuch as in 2008, the State Government policy changed. The State Government took a decision that, henceforth, no college would be granted any financial assistance except by way of grant-in-aid as stipulated therein based upon number of students and their performances, and prior to this, all posts in writ petitioner's College were sanctioned, specifically stating that University or the State would not bear the financial burden.

Thus, in view of the above the direction given by the learned Single Judge in paragraph 8 of the judgment cannot be sustained. But we make it clear that, that by itself does not mean that the writ petitioner's College would not get any other financial assistance from the State. In view of 2008 policy itself, the College is entitled to various grants as aid depending upon the number of students and their performances, subject to the College satisfying various conditions stipulated in that 2008 policy. The College would

be entitled to receive the grants as per the said 2008 policy right from 21.11.2008, when the policy was first taken, declared and made effective. It is for the College to satisfy the government that they qualify as per the conditions stipulated in the said policy of 2008. It is expected that as it is a minority institution, permanently recognized, as such having permanent affiliation, the State would not delay the matter unreasonably. Upon the petitioner's College making appropriate representations in this regard to the State, the State would take final decision in the matter after such inquiry as it deems fit and proper within a period of three months and make available all, and, complete entitlements under the aforesaid policy as applicable.

With this observations and directions, this appeal stands disposed of.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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