

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7703 of 2013

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1. Barun Kumar Son Of Sri Bhola Nath Singh Resident Of Vill. Baksanda, P.S. Akbarpur, District Nawada

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Government Of Bihar, Patna
3. The Director, Higher Education, Government Of Bihar, Patna
4. The Magadh University Through Its Vice Chancellor, Bodh Gaya, District Gaya
5. The Registrar, Magadh University, Bodh Gaya, District Gaya
6. The Principal , Maltidhari College, Naubatpur, District Patna

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate. Mr. Santosh Kumar Singh, Advocate.
For the University	:	Mr. Vipin Kumar, Advocate.
For the State	:	Mr. Md. N. Hoda Khan, Mr. Irshad, AC to SC 18.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-06-2016

Heard the parties.

In the present writ petition, at the first instance, petitioner has made a prayer for giving direction for payment of salary since July, 2009. As has been claimed, petitioner has been paid half of the salary for the months of June, 2009 and rest half of the salary has not been paid to him. As per claim of the petitioner, he had applied against the advertisement dated 8.7.2008 published in the daily newspaper "Aaj" for the post of office assistant, appeared



before the Selection Committee, accordingly he was appointed. It has further been said that Maltidhari College, Naubatpur, Patna was earlier a private College, in 1976 the College was made constituent and accordingly he was appointed on the sanctioned post. He was discharging the duty continuously, all on a sudden his salary has been stopped as in the month of June, 2009 he has been paid half of the salary and from July, 2009 onward he has been deprived of the salary, which compelled the petitioner to approach this Court in the present writ petition.

In the counter affidavit the University has brought an order dated 18.2.2016 in which details facts have been recorded.

This Court does not go to the merit of the case as many things have been said in the order but for disposal of this case, it is sufficient to take notice of fact, that the University before passing the order against the petitioner has not followed the principle of natural justice as the order is based on the report of the Commissioner who was authorized to make enquiry submitted a report without giving opportunity to explain his stand. Further it also appears that the University has conducted an internal enquiry which is also basis for passing the order dated 18.2.2016 thereby the petitioner and others have been found illegally appointed and

their appointment have been declared to be void ab initio. But the facts are very much clear, before passing the order, the University has not issued show cause nor any explanation has been sought from the petitioner.

Learned counsel for the University tried to justify the action of the University stating that when irregularity has been committed in large scale in that circumstances there is no need to issue notice to the person concerned, placed reliance on the judgment of the Hon'ble Supreme Court in the case of Union of India and others v. O Chakradhar, reported in (2002) 3 SCC 146. The judgment is not applicable to the present case in view of the fact the present case is related to single person. This order is confined to the present petitioner it cannot be extended to others as order has been passed without giving any show cause or explanation, in such view of the matter present order dated 18.2.2016 is kept in abeyance subject to final order is passed by the University. The University is directed to issue a show cause, ask explanation from the petitioner and apply independent mind. The authority concerned is directed to give an opportunity of hearing and dispose of the matter within a period of four months from the date of receipt/production of a copy of this order. While passing the

order the authority concerned will not place reliance on the earlier order dated 18.2.2016.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	11.7.2016
Transmission Date	