

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8919 of 2016

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Md. Mobin Ansari, Son of Md. Yasin, resident of Mohalla - Mewati Tola, Police Station Town Thana, Sasaram, District - Rohtas

.... Petitioner/s

Versus

1. The Chancellor of the Universities, Governor's Secretariat Bihar, Patna
2. The Vice - Chancellor, Veer Kunwar Singh University, Ara
3. The Registrar, Veer Kunwar Singh University, Ara

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sarvdeo Singh, Advocate
For the Chancellor	:	Mr. Rajendra Kumar Giri, Advocate
For the University	:	Mr. P. K. Verma, Sr. Advocate
		Mr. Kinkar Kumar
For the Intervener	:	Mr. Sunil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 02-09-2016

Heard learned counsel for the petitioner, counsel for the Hon'ble Chancellor, the university and the Interveners, who are employees of the university.

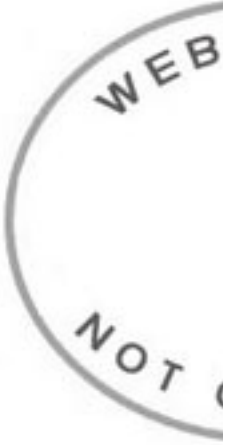
Petitioner is an Assistant, initially appointed in Maharaja College, Ara in the year 1983. When the Veer Kunwar Singh University, Ara was bifurcated from Magadh University, Bodh Gaya, Gaya, sometime in the year 1992, may be for the talent or proven efficiency of the petitioner the powers that be in the university picked him up to work as a Routine Clerk in the university. Since 1993 petitioner has remained in the university uninterrupted and has also managed to spread his wings

by creating vested interest in the system. There is indication from the materials on record that the petitioner has adequate influence and has also mechanism to lay hands on certain posts and positions, which are beyond his post and status.

Somewhere down the line, may be the petitioner rubbed some people in authority the wrong way, as is the pleading and submission of the counsel for the petitioner, which could have triggered the deliberation from the lowest to the highest. Annexure-1 is the culmination of that exercise.

Submission of the counsel for the petitioner is that the Hon'ble Chancellor had no powers and business to issue such a directive, contained in Annexure-1, dated 15.01.2016, directing the university to effect transfer of the petitioner. In this regard attention of the Court was drawn to Section 8 of the Bihar State Universities Act, 1976. It is also his case that the transfer is without bona-fide and in fact it is a kind of punishment, which requires interference not only with Annexure-1, but also Annexure-2 and 3, which are dated 29.01.2016 and 20th of April, 2016, respectively.

The contention and submission of the learned counsel with regard to lack of authority and power of the





Chancellor is a misplaced and a very myopic way of looking at the provisions of the Bihar Universities Act, 1976. Section 8 cannot be read in isolation. In fact Section 8 follows Section 7. To that extent petitioner's counsel is correct that since he is not one of the Officers of the university, the power under Section 8 could not be exercised. But then, comes Section 9, especially sub-section (ii). Section 9 (7) (ii) says as follows:

“9 (7) (ii) The Chancellor shall have the power to issue direction to the Universities in the administrative or academic interest of the Universities which he considers to be necessary. The direction issued by the Chancellor shall be implemented by the Vice-Chancellor, Syndicate, Senate and other bodies of the Universities as the case may be.”

These statutory provisions cannot be ignored and the power of the Chancellor over the university of Bihar to that extent is absolute, unless controlled and guided by the Statute itself.

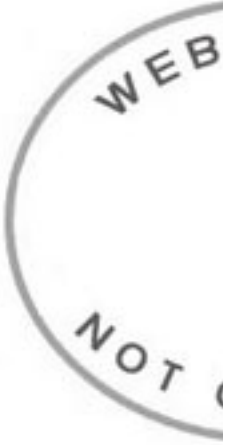
A reading of Annexure-1 indicates that the Chancellor's Secretariat has advised and directed the university that persons, who have continued to work in the university, though they belong to different colleges, are required to be repatriated. It is in consonance with the

said directives that Annexure-2 and 3 has come to be issued.

If the petitioner is not an employee of the university, since there is no one cadre of Clerks in the university, which includes even Clerks of colleges, obviously, the petitioner has overstayed his visit in the university, whatever being his resourcefulness, which helped him continue in the university right from the date of its creation till now. Since the petitioner does not have any substantive right to continue in the university as such. What culminates out of Annexure-1 is that the university's authorities were only reminded and told that such persons must go back to their parent college and perform their duties there itself.

The petitioner has more than over-stayed his stay in the university. In fact there are resentment even otherwise, which is evident from the submissions made by the Interveners that people like him are blocking the avenues of consideration for future promotions and opportunities to employees of the university, because it is persons like petitioner, who seems to be occupying such positions and, therefore, no vacancy has existed for their consideration.

This is an uncalled for situation. I think it is in



the interest of things and good administration that a decisive decision has been taken by the Hon'ble Chancellor and the decision is required to be upheld and not interfered with.

Writ application, therefore, has no merit, it is dismissed.

Before parting, counsel for the petitioner submits that there is a move to absorb people, who are working from colleges on deputation with the university. This may be an independent issue and cannot be mixed up in the relief, which has been sought for in the present writ application.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	06.09.2016
Transmission Date	