

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 201 of 2016

IN

Civil Writ Jurisdiction Case No 16948 of 2015

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Dineshwar Kumar Singh, son of late Foujdar Singh, resident of Mohalla – Tilak
Nagar, Katira, Ara, PS – Ara Nawada, District - Bhojpur

.... Appellant/s

Versus

- 1 The State of Bihar through the Commissioner-cum-Secretary, Higher
Education, Human Resources Department, Government of Bihar, Patna
- 2 The Vice Chancellor, Veer Kunwar Singh University, Ara, District – Bhojpur at
Ara
- 3 The Registrar, Veer Kunwar Singh University, Ara
- 4 The Finance Officer, Veer Kunwar Singh University, Ara
- 5 The Vice Chancellor, Magadh University, Bodh Gaya
- 6 The Registrar, Magadh University, Bodh Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : M/s Ajay Kr Thakur & Md Imteyaz Ahmad, Advocates

For the State : Mr Tej Bahadur Singh, Advocate

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 29-01-2016

Heard Shri Ajay Kumar Thakur, learned counsel in
support of this intra-Court appeal and also heard Shri Tej Bahadur
Singh, learned Senior Counsel who represented the State before the
Committee and appeared before us at our request.

2 It appears that the appellant, who was the writ
petitioner, is a Professor in the Veer Kunwar Singh University. He
had some dispute with regard to the date of his confirmation and
consequently the pay scale and the pay that was payable to him. He

had filed the writ petition before this Court which is still pending. In a batch of writ petitions, which included petitioner/appellant's writ petition, orders were passed by this Court referring the matter of fact finding, to a Committee for University Teachers, presided over by Hon'ble Mr Justice S N Jha, a retired Hon'ble Judge of this Court. Accordingly, the petitioner/appellant filed Case No 05 of 2014 before the Committee. It appears that when the matter was taken up, the Committee was of the view that important documents were not available on record and adjourned the matter. On the adjourned date, documents could not be produced and, under some confusion, the application was withdrawn which is evident from order dated 03.12.2014. Thereafter, with all the documents, an application was then filed in the said case requesting the Committee to recall the order and then give a finding with regard to the facts. The Committee dismissed the application on the ground that the petitioner/appellant had earlier withdrawn his application and further that the writ petition is pending in the High Court where petitioner/appellant could agitate all the points. This order was passed on 28.04.2015. Being aggrieved by this order, the writ petition being CWJC No 16948 of 2015 was filed which was summarily dismissed by order dated 17.12.2015 holding that the Chairman of the Committee was correct in his opinion that repeated applications are not required to be entertained at the convenience of the appellant.

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3 Having heard Shri Ajay Kumar Thakur and Shri Tej

Bahadur Singh who appears for the State, we are of the view that principles of constructive res judicata do not apply to administrative bodies. The Committee is only a fact finding body and not an adjudicatory body granting any relief or otherwise. We would further observe that all the matters, that are going to the Committee or were sent to the Committee, at the first instance, arose from the proceedings in the writ jurisdiction before this Court where all the writ petitions are still pending. The writ petitions have to be disposed of upon finding by the Committee. Thus, to say that the writ petition is pending and it is open to the writ petitioner/appellant to pursue the writ petition was not the correct approach. On technicalities, the right of finding the facts to assist the Court cannot be denied.

4 We, therefore, set aside the order of the learned Single Judge as also the order of the Chairman of the Committee and remit the matter back to the Committee to look into the records and come to finding of facts, as required at the first instance by the Court.

5 This appeal is, accordingly, allowed.

(Navaniti Prasad Singh, J)

M.E.H./-

(Nilu Agrawal, J)

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