

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4641 of 2016

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1. Vijay Kumar Thakur Son of Shri Mahanand Thakur Resident of Shastri Nagar ward no. 16, PS and District Araria and Working as Incharge Accountant (Under suspension) Araria College, Araria.

2. Md. Parwez Alam son of late Md. Yasim resident of near mosque Rahika tola ward no. 17, PS and District Araria and Working as Typiest (Under suspension) Araria College, Araria.

.... Petitioners

Versus

1. Bhupendra Narayan Mandal University Lalu Nagar Madhepura.

2. The Vice Chancellor, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura

3. The Registrar, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura

4. The Principal, Araria College, Araria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Adv.

For the Respondent/s : Mr. Shashi Bhushan Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 23-12-2016

Heard Mr. Ranjan Kumar Jha, learned counsel for the petitioners and Mr. Shashi Bhushan Singh, learned counsel for the University.

The petitioner is aggrieved by the order of suspension passed by the Registrar, Bhupendra Narayan Mandal University, bearing Memo No. 1750/15 dated 1.12.2015, which is impugned at Annexure 13 to the writ petition.

Mr. Jha, learned counsel appearing for the petitioners, with reference to the provisions underlying Clause 10.2 of the Statutes framed under the Bihar State University Act, 1976, has submitted that



the suspension order is not in tune with the provisions of the Statutes, inasmuch as no proceeding was pending on the date when the order of suspension was passed on 1.12.2015. He submits that it is simply on receipt of a complaint that the order was passed. He with reference to proviso attached to the Statutes 10(3) submits that the operation of the order of suspension is held valid only for one year unless the University extends the period for circumstances beyond its control. He further submits that a period of one year has expired since the suspension order in December, 2016 and although counter affidavit is filed on 2.12.2016 but it is silent on extension of suspension. According to Mr. Jha, these are sufficient grounds for revocation of suspension.

The argument of Mr. Jha has been contested by Mr. Singh, learned counsel for the University to submit that the complaint against the petitioners was examined and since the University found substance in the complaint that the order of suspension was passed initiating proceeding against the petitioner as indicated in the order of suspension itself. With reference to the report present at Annexure 'D' to the counter affidavit he submits that the report on enquiry has already been filed and only final order now needs to be passed by the disciplinary authority.

I have heard learned counsel for the parties and have perused



the records.

The suspension order, impugned at Annexure 13, takes notice of a complaint lodged against the petitioner which on enquiry by the University was found prima facie correct. According to Mr. Jha, the enquiry so taken note of in the suspension order was ex-parte. Nonetheless it is in consideration of the allegation that the University decided to proceed against the petitioner by issuance of a notification in this regard and following which proceedings were conducted, the enquiry report of which is placed on record vide Annexure 'D'. The provisions of Statutes 10.2 simply reads that where a University servant is being proceeded against departmentally or is charged on gross misconduct, bribery, corruption or dereliction of duty, the question of suspension should be considered with reference to prima facie evidence available against him. In my opinion, sufficient power is vested in the disciplinary authority to proceed against a University servant facing allegations which finds mentioned in the Statutes. There is, thus, no error in exercise of jurisdiction to suspend the petitioner.

In so far as the proceeding is concerned, the report is already on record vide Annexure 'D' and only final order has to be passed, as submitted by the learned University Counsel. Admittedly a period of one year has passed and in terms of the proviso attached to the Statute



10(3) the University is bound to revoke the suspension on expiry of one year except in circumstances beyond its control. In my opinion, as per the counter affidavit once enquiry report is submitted, the University cannot allege any circumstance which is beyond its control. There is nothing discussed in the counter affidavit either.

In the facts and circumstances discussed above, and considering the stipulation present at Statute 10.2 of the Statutes framed by the University in the background of the reports submitted in the disciplinary proceeding, I would direct the disciplinary authority to pass final order in the matter within four weeks from today, failing which let order be passed for revocation of suspension of the petitioner.

The writ petition is, accordingly, disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.12.2016
Transmission Date	NA

