

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.459 of 2015
IN
Civil Writ Jurisdiction Case No. 22145 of 2014

- =====
1. The L. N. Mithila University, Darbhanga through its Registrar
 2. The Vice Chancellor, L.N. Mithila University, Darbhanga
 3. The Registrar, L.N. Mithila University, Darbhanga.

.... Appellant/s

Versus

1. Dr. Deo Chandra Choudhary, son of Late Triplta Narayan Choudhary, resident of village- Tatuvar, P.O.- Tatuvar, P.S. Manigachi, District- Darbhanga.

.... Respondent/s

with

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Letters Patent Appeal No. 848 of 2015
IN
Civil Writ Jurisdiction Case No. 2048 of 2015

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1. The Lalit Narayan Mithila University, Darbhanga through its Registrar.
2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga,
3. The Registrar, Lalit Narayan Mithila University, Darbhanga.

.... Appellant/s

Versus

1. Dr. Sushil Jha son of Late Magni Jha resident of Professor's Colony, Dighi (West) Near B.S.N.L. Tower, P.S.- Darbhanga, Town, District- Darbhanga

.... Respondent/s

with

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Letters Patent Appeal No. 1210 of 2015
IN
Civil Writ Jurisdiction Case No. 1414 of 2015

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1. The Lalit Narayan Mithila University, Darbhanga through its Registrar.
2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
3. The Registrar, Lalit Narayan Mithila University, Darbhanga.

.... Appellant/s

Versus

1. Dr. Khwaja Ghulam Ashraf, son of Late Khwaja Ghulam Mohammad, resident of near Sindhi, Gurudwara, Bhandar Chowk, P.S.- LNM University, District- Darbhanga.

.... Respondent/s

with

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Letters Patent Appeal No. 1463 of 2015
IN
Civil Writ Jurisdiction Case No. 1927 of 2015

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1. The Lalit Narayan Mithila University, Darbhanga through its Registrar.
2. Vice Chancellor, Lalit Narayan Narayan Mithila University, Darbhanga.
3. Registrar, Lalit Narayan Mithila University, Darbhanga.

.... Appellant/s

Versus

1. Dr. Narendra Kumar Singh son of Late Tilleshwar Singh, Resident of Village - Sinuara, P.S. - Sinuara, P.S. - Bahadurpur, District - Darbhanga.

.... Respondent/s

with

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Letters Patent Appeal No. 1289 of 2015
IN
Civil Writ Jurisdiction Case No. 1575 of 2015

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1. The Lalit Narayan Mithila University, Darbhanga through its Registrar
2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga
3. The Registrar, Lalit Narayan Mithila University, Darbhanga

.... Appellant/s

Versus

1. Dr. Abdus Samad Ansari son of Late Md. Sulaiman Ansari, resident of Near Bhigo Middle School, Chak Rahmat, P.S.- Laheriasarai, District- Darbhanga

.... Respondent/s

with

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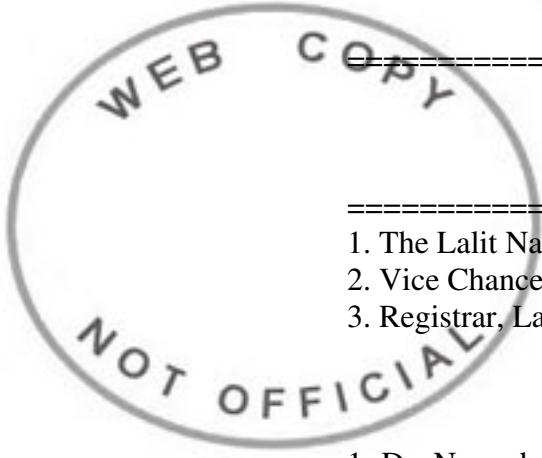
Letters Patent Appeal No. 1523 of 2015
IN
Civil Writ Jurisdiction Case No. 1825 of 2015

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1. The Lalit Narayan Mithila University, Darbhanga through its Registrar
2. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga
3. The Registrar, Lalit Narayan Mithila University, Darbhanga

.... Appellant/s

Versus



1. Dr. Pramod Kumar Mishra son of Late Navkant Mishra, Resident of Shubhankarpur, P.S- Town, District - Darbhanga.

.... Respondent/s

Appearance :

(In LPA No. 459 of 2015)

For the Appellant/s : Mr. Yugal Kishore, Senior Advocate
With Mr. Chandra Mohan Singh

For the Respondent/s : Mr. Abhinav Shrivastava, Advocate

(In LPA No. 848 of 2015)

For the Appellant/s : Mr. Yugal Kishore, Sr. Advocate
With Mr. Chandra Mohan Singh

For the Respondent/s : Mr. Abhinav Shrivastava, Advocate

(In LPA No. 1210 of 2015)

For the Appellant/s : Mr. Yugal Kishore, Sr. Advocate
With Mr. Chandra Mohan Singh

For the Respondent/s : Mr. Abhinav Shrivastava, Advocate

(In LPA No. 1463 of 2015)

For the Appellant/s : Mr. Yugal Kishore, Sr. Advocate
With Mr. Chandra Mohan Singh

For the Respondent/s : Mr. Abhinav Shrivastava, Advocate

(In LPA No. 1289 of 2015)

For the Appellant/s : Mr. Chandra Mohan Singh

For the Respondent/s : Mr. Abhinav Shrivastava, Advocate

(In LPA No. 1523 of 2015)

For the Appellant/s : Mr. Chandra Mohan Singh

For the Respondent/s : Mr. Abhinav Shrivastava, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 11-01-2016

The jurisdiction of the Vice-Chancellor of a University to make *intra* University transfers of teachers/ Principals from one College to another or from a University Department to a College and *vice versa* invoking power vested in him under Section 10(11) of the



Bihar State Universities Act, 1976 (hereinafter referred to as the Act), without adhering to the requirements of Section 10(14) of the Act, is the core and common issue involved in the present batch of appeals, made under Clause 10 of the Letters Patent of this Court, by the Lalit Narain Mithila University, Darbhanga (hereinafter referred to as the University). By filing writ application under Article 226 of the Constitution of India (except the Respondent of LPA No. 459 of 2015), the respondents, in the present batch of appeals, approached this Court, questioning the validity of their transfer from P. G. Department of the University to different Colleges. The writ applications which came to be allowed by a learned single Judge by orders under appeal. The Respondent of LPA No. 459 of 2015 had questioned his transfer from the post of Principal from one College to another, under the University, by filing writ application, which came to be allowed by learned single Judge. Aggrieved by orders passed by the learned single Judge, allowing the writ applications, the present batch of appeals have been preferred by the University.

2. Before addressing the controversy involved, it would be appropriate to briefly refer to the facts of each case, which have given rise to making of these appeals, by the University.

3. **LPA No. 459 of 2015**



The Respondent of LPA No. 459 of 2015, Dr. Deo Chandra Choudhary, had a grievance against his transfer from the post of Principal, M.L.S.M. College, Darbhanga, a constituent Unit of the University, to another constituent College of the University, viz, S.B.S.S. College, Begusarai. Aggrieved by the notification, dated 30.11.2014, issued under the signature of the Registrar of the University, issued under the orders of the Vice-Chancellor of the University in exercise of power under Section 10 (11) of the Act, whereby he was sought to be transferred from the post of Principal of M.L.S.M. College, Darbhanga, to the post of Principal S.B.S.S. College, Begusarai, he preferred a petition, under Article 226 of the Constitution of India, giving rise to CWJC No. 22145 of 2014. The challenge was on the ground, *inter alia*, that before transferring a Principal from one College to another, the matter was mandatorily required to be placed before a Committee constituted under the orders of the Chancellor of the Universities of Bihar (hereinafter referred to as the Chancellor) as envisaged under Section 10(14) of the Act.

4. We will be dealing with the facts and questions of law raised in LPA No. 459 of 2015, first, for the reason that enunciation of law and the logic for the judgment and order, dated 13.01.2015, passed by a learned single Judge, in CWJC No. 22145 of 2014 out of

which the said appeal arises, has been made the basis for passing orders by learned single Judge in other cases too, which are being assailed by the University.

5. The Respondent, Dr. Deo Chandra Choudhary of LPA No. 459 of 2015, was appointed as a Principal in the services of the University and was initially posted at R.N. College, Pandaul, a constituent Unit of the University.

6. Section 26 (6) (iv) of the Act mandates that Principal of a College shall hold office for a maximum period of five years in one College. Adhering to the said provisions, the Respondent was transferred from the said College and posted as Principal M.L.S.M. College, Darbhanga, where he submitted his joining report on 01.07.2013. Later on, by the impugned notification, dated 30.11.2014, issued by the University purportedly in exercise of powers vested in the Vice-Chancellor under Section 10 (11) of the Act, he was sought to be transferred from the post of Principal of said M.L.S.M. College, Darbhanga, to the post of Principal of S.B.S.S. College, Begusarai. He challenged the said notification by filing an application under Article 226 of the Constitution of India, which gave rise to CWJC No. 22145 of 2014. He pleaded that after he had submitted his joining at M.L.S.M. College, Darbhanga, on



01.07.2013, his health condition had started deteriorating, which related to heart disorders and glaucoma. Since it was becoming difficult for him to discharge duties and carry on with the work load of the Principal of the College, he made a request, in August, 2014, to the Vice-Chancellor to relieve him of the responsibilities of Principal by accepting his resignation and reverting him back to the post of Reader in Sociology in the University; the post, which he was earlier holding. It transpires from the records and the order, dated 13.01.2015, under appeal, passed by learned single Judge, during the pendency of the writ application, that the University had come out with a notification, dated 05.01.2015, accepting the resignation of the respondent with immediate effect. By I.A. No. 261 of 2015, he sought to amend the relief prayed for in the writ application for challenging the said notification, dated 05.01.2015, whereby his resignation was accepted. Learned single Judge, allowed the respondent to amend the relief and, thus, challenged the said communication, dated 05.01.2015. He brought on record a letter, dated 19.09.2015, addressed to the Vice-Chancellor of the University, whereby he had withdrawn his resignation, which was submitted by him earlier.

7. He assailed the order of his transfer on the ground that under Section 10 (11) of the Act, the Vice-Chancellor can exercise



general control over the educational arrangement of the University and he did not have the power to make transfer without invoking and complying with the requirements of Section 10 (14) of the Act, when the Chancellor of the Universities of Bihar, had through communication, dated 18.12.2008, read with subsequent communication, dated 14.02.2009, had already constituted a Committee to consider the cases of *intra* University transfer of Principals from one College to another. A plea was also taken that the University through a communication, dated 19.10.2013 (Annexure 5 to CWJC No. 22145 of 2014), had constituted Committee to consider transfer of teachers to Post Graduate Department and *intra* University transfer of teachers from one College to another, in conformity with Section 10(14) of the Act, it was incumbent upon the Vice-Chancellor to have placed his case before the Transfer Committee, constituted in terms of the decision of the Chancellor, before taking a decision on his transfer from the post of Principal MLSM College, Darbhanga, to SBSS College, Begusarai. This was the statutory requirement, which the Vice-Chancellor did not adhere to and issued the impugned order of transfer in breach of the statutory provisions under Section 10(14) of the Act, the respondent contended.

8. In support of his plea of constitution of Committee by the



Chancellor for consideration of the cases of transfer of a Principal from one College to another, he produced before learned single Judge, communications, dated 18.12.2008 and 14.02.2009, issued by the Governor's Secretariat. The communications are there on record of CWJC No. 22145 of 2014, though not by way of an affidavit. It is easily evincible from the said two communications that invoking provisions of Section 10(14) of the Act, the Chancellor has constituted a Committee of five members for considering the cases of transfers of Principals of the Colleges in accordance with the provisions of the Act and guidelines already issued in this regard.

9. The University, in its counter affidavit filed in the writ proceedings, took a plea that several complaints were received over the behaviour and manner of the respondent's functioning as Principal of the College, which included misappropriation of College fund, non-payment of salary to non-teaching employees in spite of receipt of grant and other financial irregularities. They also took a plea that a member of Darbhanga Unit of CPI(M) had also, through his letter, dated 11.10.2014, made certain allegations against the respondent and it was in this background that it was decided to transfer the respondent from the said College for proper and impartial investigation into the allegation made against him, the University

pleaded in the counter affidavit..

10. Learned single Judge sustained the challenge to the impugned order of transfer on the grounds taken on behalf of the respondent. Learned single Judge quashed the impugned order of transfer on the ground, *inter alia*, that there was no apparent reason for not adhering to the provisions embodied under Section 10(14) of the Act. Learned single Judge, dealing with rival contentions and pleadings on record, came to a conclusion that the action of the Vice-Chancellor, in transferring the respondent, lack *bona fide* and fairness.

11. Referring to a Supreme Court's decision in case of ***Dipak Babaria and another Vrs. State of Gujrat and others*** reported in (2014) 3 SCC 502, the learned single Judge held that in the absence of any reason indicated in the impugned order itself, the stand of the University that the respondent was being transferred for facilitating a proper and impartial investigation could not be accepted.

12. As regards the respondent's challenge to acceptance of his resignation by impugned notification, dated 15.01.2015, learned single Judge sustained his plea and set aside the said notification on the ground that he had already withdrawn his letter of resignation, on 18.09.2014, much before the impugned notification, dated 05.01.2015, when the notification, accepting his resignation, was

issued.

13. **LPA No. 848 of 2015**

The Respondent of LPA No. 848 of 2015, Dr. Sushil Jha, was initially appointed as a Laboratory Assistant in the Chemistry Department of C.M. Science College, Darbhanga, a constituent unit of the University, on 30.11.1975. It is his case that the Apportionment Committee of the University had, in its meeting held on 27.11.1976, considered the proposal of the heads of the University Department and resolved to apportionment of the some of the persons working on different posts at C.M. Science College, Darbhanga, amongst, different cadre under the University Departments. The service of the respondent, who was working in the Department of Chemistry in C.M. Science College, Darbhanga, as Laboratory Assistant, was apportioned to P.G. Department of Chemistry of the University. In the year 1981, the posts of Laboratory Assistants were upgraded and converted into Demonstrators and, thus, the respondent became a Demonstrator in Chemistry Department of the University. By a notification, dated 19.12.1981, issued by the University, he was appointed, on promotion, to upgraded post of Demonstrator, with effect from his initial appointment, as Laboratory Assistant, i.e., with effect from 11.11.1975. In the meanwhile, statute for promotion from



the post of Demonstrator to the post of Lecturer came into being, which provided, *inter alia*, that cases of Demonstrators, working in the service of the University, shall be considered for promotion to the post of Lecturer if he had put in continuous service of seven years as a Demonstrator and held the qualification as prescribed for the post of Lecturer. The University came out with a notification, on 26.02.1997, granting the respondent promotion to the post of Lecturer in Chemistry in the University with effect from 11.11.1982. Briefly stated, a person, who was appointed as Laboratory Assistant in November, 1975, became a Lecturer with effect from November, 1982. He was promoted to the rank of Reader with effect from 11.11.1990 and Professor with effect from 11.11.1998. It is his further case that all promotions from the post of Demonstrator to the post of Professor are personal promotion and substantially, he still holds the post of Demonstrator in the University.

14. He came to be transferred from the PG Department of University to Marwari College, Darbhanga, by a notification, dated 18.10.2014. He filed a representation against his transfer and, thereafter, filed writ application before this Court, giving rise to CWJC No. 2048 of 2014, raising a grievance against his transfer from the PG Department of the University to Marwari College,



Darbhanga, a constituent Unit of the University. He took a similar plea before learned single Judge that it was mandatory for the authorities to have placed the matter before the Committee constituted under Section 10(14) of the Act for taking a decision on his transfer. The matter having not been placed before the said Statutory Committee, the impugned transfer order was illegal and unauthorizedly issued under the orders of the Vice-Chancellor. The writ application came to be allowed by the order under appeal, dated 09.03.2015.

15. LPA No. 1463 of 2015

Dr. Narendra Kumar Singh, the Respondent of LPA No. 1463 of 2015, was transferred from the post of Associate Professor in the University Department of Physics of the University to Marwari College, Darbhanga, by notification, dated 18.10.2014. He challenged the said order of transfer by filing an application, under Article 226 of the Constitution of India, giving rise to CWJC No. 1927 of 2015. Learned single Judge by the order under appeal, dated 24.04.2015, quashed the said notification to the extent it related to the respondent.

16. From the pleadings on record, it appears that he was appointed initially as a Laboratory Assistant in the Department of



Physics of C.M. Science College, Darbhanga, and like Dr. Sushil Jha, his service was also apportioned to the physics Department of the University as a Laboratory Assistant. In course of time, the said post of Laboratory Assistant was converted into the post of Demonstrator, and the respondent, thus, acquired the status of a Demonstrator in the Department of Physics, by up gradation of the post of Laboratory Assistant. By virtue of the statute, dated 18.11.1980, he came to be promoted as a Lecturer in Physics, in the service of the University, with effect from 22.12.1986. By a subsequent notification, his promotion to the post of Lecturer was shifted back to 12.11.1982 and he became a Reader, with effect from 12.11.1992, by way of promotion.

17. LPA No. 1210 of 2015

The Respondent of LPA No. 1210 of 2014, Dr. K. G. Ashraf, came to be transferred by notification, dated 18.10.2014, from the post of Associate Professor in the University, Department of Sociology, to Millat College, Laheria Sarai, Darbhanga, a constituent Unit of the University. He challenged the order of transfer by filing writ application, giving rise to CWJC No. 1414 of 2015, which has been allowed by the order under appeal, dated 24.04.2015, passed by the learned single Judge.

18. LPA No. 1289 of 2015

Dr. Abdul S. Ansari, the Respondent of LPA No. 1289 of 2015, was transferred by the same notification, dated 18.10.2014, from the post of Associate Professor, in the University Department of Chemistry of the University, to C.M. Science College, Darbhanga. He challenged the said notification by filing writ application, giving rise to CWJC No. 1575 of 2015, which has been allowed by the order under appeal, dated 24.04.2015, passed by learned single Judge.

19. LPA No. 1523 of 2015

Dr. Pramod Kumar Mishra, the Respondent of LPA No. 1523 of 2015, was transferred by the same notification, dated 18.10.2014, from the post of Associate Professor in the P.G. Department of Physics of the University to M.K. College, Laheriasarai. He challenged the order of transfer by filing an application under Article 226 of the Constitution of India, giving rise to CWJC No. 1825 of 2015, which came to be allowed by learned single Judge by the order under appeal, dated 24.04.2015.

20. On perusal of the orders under appeal, it is apparent that learned single Judge dealing with the case of Dr. Deo Chandra Choudhary, in CWJC No. 22145 of 2014, considered elaborately the power of the Vice-Chancellor vested in him under Section 10(11) of



the Act *vis-à-vis* the provisions as contained in Section 10(14) of the Act. This is to be noted that Section 10 (14) of the Act confers jurisdiction on the Vice-Chancellor of the University to transfer a teacher from a Department or a College in accordance with the guidelines duly approved by the Chancellor. Statutes laying guidelines for transfer of teachers and Principals of the Colleges and teachers of the Post Graduate Department of the Universities have been framed vide No. 269/GS9(c), dated 22.07.1982. In addition thereto, there appears to be no dispute over the fact that Committees have been constituted to consider transfer of teachers to Post Graduate Department and for *intra* University transfer of teachers from one College to another and transfer of Principal of a College to another College under the orders of the Chancellor. This is also not in dispute that the cases of the respondents herein were not placed before the Committee of the University so-constituted before issuance of the impugned notifications.

21. By the order, dated 13.01.2015, which is under appeal, in LPA No. 459 of 2015, the learned single Judge set aside the order of transfer of Dr. Deo Chandra Choudhary from the post of Principal of MLSM College, Darbhanga, to the post of Principal SBSS College, Begusarai, mainly on the ground that the matter was not placed before



the Committee constituted for considering cases of transfer in accordance with the provisions contained in Section 10(14) of the Act. Learned single Judge held that the Vice-Chancellor could not have bypassed the requirements of Section 10(14) of the Act, which specifically deals with the transfer of Principals/teachers, by taking recourse to Section 10(11) of the Act. Learned single Judge quashed the notification of transfer with respect to the rest of the respondents on the same reasoning and logic as given in case of Dr. Deo Chandra Choudhary.

22. The University, thus, aggrieved by the orders passed by the learned single Judge, as referred to above, allowing the writ applications filed by the respondents, has preferred the present batch of appeals under Clause 10 of the Letters Patent of this Court.

23. So far as the facts are concerned, there is slight difference between the cases of Dr. Deo Chandra Choudhary and other respondents to the extent it relates to the reason behind their transfer, as explained by the University in its counter affidavit. In case of Dr. Deo Chandra Choudhary, the University took the stand that his transfer was purely on administrative grounds as there were serious allegations of various nature against him received by the University and it was in the interest of proper and fair investigation into such



allegation that he be transferred him from the said MLSM College, Darbhanga, and he was accordingly transferred. In other cases, the University, in its counter affidavit, took a common plea that in compliance of the direction of the Chancellor's Secretariat as contained in Letter NO. MU-56/2013/369/GS (1), dated 28.02.2014, it was mandatory, on the part of the University, to post four senior most Professors in the Post Graduate Department of the University and in pursuance of the said direction, 4 (four) senior teachers were posted in the P. G. Department of the concerned subjects. There being limited number of posts of teachers, the hands, which became surplus, because of posting of senior most Professors in the P.G. Departments, were required to be transferred, out of the P. G. Department, for their posting in some other Colleges of the concerned department.

23. The respondents of LPA No. 848 of 2015 and LPA No. 1463 of 2015 took an additional ground, in their pleadings in writ proceedings, that their promotions/upgradation from the post to which they were initially appointed, i.e. Laboratory Assistants being personal promotion in the P. G. Department of the University, they could not have been transferred out of the P. G. Department as they continued to hold the post of Demonstrators in the P.G. Departments of the University till date. This aspect has not been gone into learned

single Judge in the orders under appeal as the notification was found to be illegal on the other ground as indicated above.

24. Mr. Yugal Kishore, learned Senior counsel, appearing on behalf of the University, while assailing the orders under appeal passed by learned single Judge, has submitted that Section 10(11) of the Act confers upon the Vice-Chancellor ample power and jurisdiction for exercising general control over the educational arrangement of the University and to take all steps which are essential for maintaining the academic standard and administrative discipline of the University. He has submitted that the impugned notifications of transfer were issued under the orders of the Vice Chancellor invoking provisions of Section 10 (11) of the Act for maintaining academic standard and the administrative discipline of the University. He has referred to Section 26 (6) (iii) of the Act which mandates that Head of the P.G. Departments of the University can hold post for a period of three years and ordinarily a person cannot be appointed for a second consecutive term as Head of the Department, as per the said provision. According to him, for the purpose of making the said provision functional effectively, it was decided at the level of the Chancellor that four senior most Professors working in the service of the University, i.e., including those working in the constituent

Colleges of the University should be posted in the P.G. Department of the University.

25. In order to satisfy the requirements of having four senior most teachers of the P.G. Departments of the University, the Teachers posted in the P.G. Department were required to be shifted out and it was in this background that the Vice Chancellor issued the notification transferring the respondents (other than the respondent of L.P.A . No. 459 of 2015) from the P.G. Departments of the University to various constituent Colleges of the University in their respective Departments. He has also submitted that the transfers and posting of the respondents so made are not going to adversely affect or prejudice the respondents in any manner whatsoever.

26. Referring to L.P.A. No. 459 of 2015, Mr. Yugal Kishore, learned Senior Counsel, appearing on behalf of the respondents/ University, submits that the transfer of the respondent, Dr. Deo Chandra Chaudhary, was on administrative ground as allegations of serious nature were being received against him and the University proposed to take disciplinary action against him after proper enquiry and investigation. For holding proper enquiry and a fair investigation, the respondent, Dr. Deo Chandra Chaudhary, was required to be shifted from the post of Principal M.L.S.M. College, Darbhanga, to

the post of Principal, S.B.S.S. College, Begusarai, he contends.

27. Mr. Abhinav Shrivastava, learned counsel appearing on behalf of all the respondents in all the cases, would, on the other hand, submit that the Act prescribes a procedure to be followed for effecting *intra* University transfer of a Principal from one College to another and/or of a Teacher from P.G. Departments of the University to any constituent College or *vice versa*. He has submitted that whereas Section 10 (11) of the Act deals with general powers of the Vice-Chancellor, which he may exercise for the purpose of maintaining academic standard and administrative discipline of the University, Section 10 (14) of the Act specifically deals with the power of the Vice-Chancellor to make transfer. He submits that the Vice-Chancellor cannot invoke his jurisdiction under Section 10 (11) of the Act by ignoring the provisions as contained in Section 10(14) of the Act.

28. We have perused the materials on record and have given our anxious consideration to the rival submissions made on behalf of the parties. Whereas there is no dispute over the power of the Vice-Chancellor, under the Act, to transfer a Principal from one College to another and/or a Teacher from one College to another or from P.G. Departments of the University to a College or *vice versa*, a bare

reading of Section 10 (14) of the Act shows that there is specific provision and procedure, which confers such power on the Vice-Chancellor of a University. It is easily noticeable from the provisions under the Act that the power and jurisdiction of the Vice-Chancellor, under Section 10(11) of the Act to take all steps essential for maintaining academic standard and administrative discipline of the University, is general in nature, whereas the power under Section 10 (14) of the Act deals specifically with *intra* University transfer of a Teacher. There being specific provisions relating to transfer, the general power cannot be invoked by overlooking the requirements of specific provisions. For the benefit of ready reference, we are extracting hereinbelow Section 10(11) and Section 10(14) of the Act, which read as under:-

“10(11) The Vice-Chancellor shall exercise general control over the educational arrangement of University and shall be responsible for the discipline of the University. It shall be lawful for the Vice-Chancellor to take all steps which are necessary for maintaining the academic standard and administrative discipline of the University.”

“10(14) कुलपति को विश्वविद्यालय द्वारा घोषित किसी विभाग या विश्वविद्यालय के किसी

शिक्षक को कुलाधिपति द्वारा स्वीकृत मार्ग निर्देशक सिद्धान्त के अनुसार उस विश्वविद्यालय द्वारा घोषित किसी अन्य विभाग या महाविद्यालय के किसी समकक्ष पद पर स्थानान्तरित करने की शक्ति होगी।”

(Illustration- ‘equivalent post’ means Reader and Principal in the pay scale of Reader, Professor and Principal in the pay scale of Professor) ”

29. No dispute has been raised that the Committees have been constituted for considering the transfer of a teacher/Principal from one College to another in terms of the guidelines issued by the Chancellor in accordance with Section 10(14) of the Act. It is also not in dispute that the cases of the respondents herein were not placed before the Committees constituted in terms of Section 10(14) of the Act before issuance of the notification impugned in the writ application. In this background, submission, advanced by Mr. Yugal Kishore, learned Senior counsel, that the Vice-Chancellor was justified in invoking power under Section 10(11) of the Act, without resorting to requirements of Section 10(14) of the Act, is not convincing us. Learned single Judge, in our opinion, has rightly held that for effecting transfer of a teacher, the Vice-Chancellor was required to proceed in accordance with the provisions contained in Section 10 (14) of the Act. This is an admitted fact that the



Chancellor has issued guidelines as contemplated under Section 10(14) of the Act and, in furtherance thereof, Committees have been constituted by the University to consider the cases of transfers. In terms of provisions contained in Section 10(14) of the Act read with the guidelines issued in this regard, the matters were, in our opinion, required to be placed before the transfer Committees. This having not been done, learned single Judge has rightly interfered with the impugned notifications of transfer.

30. It is well accepted doctrine that if a statute requires a thing to be done in a particular manner, then it must be done in that manner alone or not at all.. Learned counsel for the respondent is right in his submission to this effect, while placing reliance upon Supreme Court's decision in ***Dipak Babaria and another Vs. State of Gujarat and others***, reported in (2014) 3 SCC 502, paragraph 61 whereof reads thus:-

“61. It is well settled that where the statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. This proposition of law laid down in Taylor 21 v. Taylor was first adopted by the Judicial Committee in Nazir Ahmad v. King Emperor 22 and then followed by a Bench of three Judges of

*this Court in Rao Shiv Bahadur Singh v. State of Vindhya Pradesh*²³. This proposition was further explained in para 8 of *State of U.P. v. Singhara Singh*²⁴ by a Bench of three Judges in the following words: (AIR p.361)

“8. The rule adopted in *Taylor*²¹ v. *Taylor* is well recognized and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the statutory provision might as well not have been enacted.”

*This proposition has been later on reiterated in Chandra Kishore Jha v. Mahavir Prasad*²⁵, *Dhanajaya Reddy v. State of Karnataka*²⁶ and *Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd*²⁷.”

31. Situated thus, we, do not find any infirmity in the orders under appeal.

32. However, at the same time, we reject the plea, taken on behalf of the respondents of L.P.A. No. 848 of 2015 and L.P.A. No. 1463 of 2015, that they cannot be transferred out of



the P.G . Department of the University on the ground that they are holding the post of Demonstrators and their promotion to the rank of Professor/Associate Professor are personal promotions. The plea that they cannot be transferred out of P.G. Department of the University has neither any basis nor any rationale. They were initially appointed as Laboratory Assistants and required promotions to the rank of Professor/Associate Professor. In our opinion, they can be transferred, out of the P.G . Department, to a College in accordance with law and the procedure prescribed.

33. We, thus, do not find any reason to interfere with the orders under appeal.

34. However, keeping in view the reasons assigned in the counter affidavit for transferring the respondents from P.G. Departments of the University to various Colleges to the effect that four senior most Professors were required to be posted in the P.G. Departments in compliance of the directive of the Chancellor in order to make Section 26 (6) (iii) of the Act functional, we direct the Vice-Chancellor of the University to place, within two weeks from today, these matters of transfer before the Committees constituted in terms of Section 10 (14) of the Act. The Committee shall take a decision within one week

thereafter. The Vice-Chancellor of the University shall proceed, in accordance with the provisions of Section 10 (14) of the Act, within two weeks thereafter. We, however, make it clear that if required, there shall be no impediment on the part of the Vice Chancellor of the University to place respondent No. 3 in L.P.A. No. 459 of 2015, namely, Dr. Deo Chandra Choudhary, under suspension if such suspension is necessitated for holding enquiry.

35. With the aforesaid modifications in the orders under appeal, these appeals are disposed of.

36. There shall be no order as to costs.

37. All Interlocutory applications stand disposed of accordingly.

(Chakradhari Sharan Singh, J)

I.A. Ansari, ACJ:- I agree.

(I.A. Ansari, ACJ)

ArunKumar/-

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