

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5253 of 2017

=====

1. Dr. Mukti Nath Singh, Son of Late Raj Bahadur Singh, Resident of Village+P.O.- Dharupur, P.S.- Bikramganj, District- Rohtas, Sasaram, Bihar-cum-Sole Doner Member, Veer Kunwar Singh College, Dharupur, Bikramganj, Rohtas.

.... Petitioner/s

Versus

1. The Veer Kunwar Singh University, Ara through its Registrar.
2. The Vice Chancellor, Veer Kunwar Singh University, Ara, District- Bhojpur (Ara), Bihar.
3. The Registrar, Veer Kunwar Singh University, Ara, District- Bhojpur (Ara), Bihar.
4. The Secretary, Governing Body, Veer Kunwar Singh College, Dharupur, Bikramganj, Rohtas.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh
& Mr. Ajay Kumar Singh
For the Respondent/s : Mr. Prabhat Kumar Verma
Mr. Jitendra Pd. Singh

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL JUDGMENT ORDER

3 18-07-2017 The petitioner claims to be one of the Donors of Veer Kunwar Singh College, Dharupur, Bikramganj, Rohtas, which is affiliated to the Veer Kunwar Singh University, Ara. He is aggrieved by the notifications issued on 18.01.2017 and 11.02.2017, whereby Respondent No.6 has been co-opted as Educationist Member for Governing Body of the said College. Constitution of the Governing Body of an affiliated College is governed by the Statutes relating to Governing Bodies of the affiliated Colleges covering all the Universities except Patna University as amended and assented to by the Chancellor vide letter No. MLU-30/80-450 G.S.(1) dated



12.02.1982.

2. At the very outset, it must be pointed out that at present there is no Governing Body of the College and on the dates when the impugned notifications were issued, there was no Governing Body. Clause 2(i) of the Statutes provides that if for any reason Governing Body of an admitted college is not constituted, the Syndicate of the University shall constitute an Ad-hoc committee of not more than five members until the Governing Body is constituted. It further contemplates that the President shall be nominated by the Vice-chancellor. It is the Ad-hoc Committee constituted for the College, which is presently looking after the affairs of the College and it is the decision of the said Ad-hoc Committee to co-opt Respondent No.6 as educationist Member, which has been notified by the University and is under challenge in the present proceeding.

3. The controversy involved in the present case has direct answer in Clause 1 of the Statutes, which lays down the procedure for constitution of a Governing Body which reads thus:-

"1. There shall be a Governing body constituted for management and administration of every admitted college other than college owned and maintained by the State Government or College establish and administered by religious linguistic minorities or admitted as Technical or Medical Colleges which shall consist of the following



members:-

- (i) Principal of the College-Ex-officio.
- (ii) One teacher elected from and by the teachers of the College.
- (iii) One representative of the University nominated by the Syndicate.
- (iv) One Government Officer of the State Government not below the rank of the Sub-divisional Magistrate posted in the district nominated by the Syndicate.
- (v) One member elected from amongst themselves by Donors who have donated not less than Rs. 25,000/- to the college.
- (vi) One member either of Parliament or the State Legislature residing in the district preferably of the locality where the college is situated nominated by the Syndicate.
- (vii) One member co-opted by the Governing Body from amongst the educationist or persons noted for their academic interest residing in the district where the college is situated:

Provided that in the case of colleges owned and maintained by the Government, the Governing Body consisting of seven members shall be constituted by the Syndicate in consultation with the State Government.

Provided further that in the case of colleges established and administered by minorities based on religion or language or Medical/Engineering colleges other than those maintained by the Government the Governing Body shall be constituted by the Syndicate after considering advice of the sponsors authorities of the college concerned. But where however the



Syndicate is not able to satisfy itself about the bonafide of sponsors authorities of any such college or for any other reason it may constitute an Ad-hoc Committee consisting of not more than 5 members."

4. It is evident from the said provision that one member is to be co-opted by the Governing Body from amongst the educationists or persons noted for their academic interest, residing in the District where the college is situated. The co-option is to be done by the Governing Body, constituted under Clause 1 of the said Statutes.

5. Learned counsel appearing on behalf of Respondent No.6 has submitted that an Ad-hoc Committee constituted under Clause 2 of the Statutes has all powers and functions, which regular Governing Body can perform and, therefore, there is no illegality in decision of the Ad-hoc Committee to co-opt Respondent No.6 as educationist Member of the Governing Body.

6. The language of Clause 1 and Clause 2 of the Statutes is clear. Constitution of Governing Body is prescribed under Clause 1. In the absence of Governing Body, an Ad-hoc Committee is required to be constituted. The Ad-hoc committee of not more than five members is to be constituted by the Syndicate. The Ad-hoc Committee of the Governing Body does not have any jurisdiction either to alter its own constitution different from what has made the Syndicate nor to co-opt any person for the purpose of



being Member of a Governing Body, which is admittedly not existing.

7. This is unfortunate that the University has acted mindlessly in notifying Respondent no.6 as educationist Member of a Governing Body, which does not exist. As I have been noted above, the Ad-hoc Committee could not have co-opted any educationist Member, as such power of co-option is not there with the Ad-hoc Committee.

8. A plea has been taken on behalf of Respondent No.6 that this writ application filed on behalf of the petitioner is not maintainable since the petitioner's claim that he is a Donor has not been substantiated. I need not go into the question as to whether the petitioner is Donor of the College or not. It is evident from the materials on record that the petitioner has been associated with the functioning of the College. This application cannot be rejected on the ground of absence of *locus standi*.

9. The impugned notifications, dated 18.01.2017 and 11.02.2017, in my view, are in the teeth of the provisions of Clause 1 and 2 of the Statutes. The same are accordingly set aside.

10. This application is, accordingly, allowed.

(Chakradhari Sharan Singh, J)

ArunKumar/-

U			
---	--	--	--

