

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.355 of 2016

In

Civil Writ Jurisdiction Case No. 21992 of 2014

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Kewal Jha Son of Late Jageshwar Jha at present working as an Associate Professor, Department of Political Science, R.D.S. College, Salmari, Katihar, P.O+ P.S- District - Katihar, Resident of Village - Soharai P.O- Pandol P.S- Madhubani Sadar, Distt- Madhubani.

.... Appellant/s

Versus

1. Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura, P.O+ P.S + District - Madhepura through its Vice Chancellor.
2. The Registrar, Bhupendra Narayan Mandal University, Laloo Nagar, Madhepura, P.O + P.S + District - Madhepura.
3. The Hon'ble Chancellor, Bihar, Raj Bhawan, Patna.
4. The Principal Secretary, Governor Secretariat, Bihar, Raj Bhawan, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Bipin Bihari Singh, Adv.

For the Respondent/s : Mr. P.K.Shahi, Sr. Adv.

Mr. Rajesh Singh, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR

UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

9 28-06-2017 Seeking exception to an order dated 15th December 2015 passed by the Writ Court in C.W.J.C. No. 21992 of 2014, this appeal has been filed under clause 10 of the Letters Patent. The writ petition has been dismissed by the learned Court on the ground that one Sri Pawan Kumar Jha was a necessary party, he has not been impleaded as a party and therefore, the petition is not maintainable.

The petitioner filed the writ petition and wanted action to be taken on an enquiry report allegedly submitted implicating Sri



Pawan Kumar Jha in the matter of certain degree (Ph.D) obtained from the Lalit Narayan Mithila University. However, the said Sri Pawan Kumar Jha was not impleaded as a party and the Lalit Narayan Mithila University was also not impleaded as a party. When the matter came up for consideration before the Writ Court on 15.12.2015, Sri Pawan Kumar Jha appeared through his counsel and filed I.A. No. 2779 of 2015 pointing out the fact that he is a necessary party indicating the reason that he has not been impleaded as necessary party and said that the writ petition is not maintainable without impleading him as a party and wanted to be added as a party. The said application was allowed so far as the objection on non-joinder of party was considered and the petition was dismissed.

We are of the considered view that the learned Writ Court has not committed any error warranting re-consideration. The prayer in the writ petition has been made for taking action on the enquiry report submitted against Sri Pawan Kumar Jha with regard to the qualification of Ph.D acquired from the Lalit Narayan Mithila University.

We are of the considered view that as Sri Pawan Kumar Jha was not impleaded as a party, the writ petition was dismissed and in doing so no error has been committed.

Learned counsel for the appellant submits that on 15.12.2015, the interlocutory application of Sri Pawan Kumar Jha was allowed and therefore, Shri Pawan Kumar was a party to the proceeding, is wholly misconceived and cannot be accepted. Whatever



was the prayer in I.A. No. 2779 of 2015, Sri Pawan Kumar Jha is a necessary party and the petition cannot be proceeded without hearing him and learned Writ Court after allowing the prayer made in I.A. No. 2779 of 2015 has dismissed the writ petition as Sri Pawan Kumar Jha was not impleaded as a party.

That apart, the petitioner should have impleaded Sri Pawan Kumar Jha as party, even in this appeal. Sri Pawan Kumar Jha and the University have not been impleaded as party even in this appeal and that being so, no consideration can be made now. The appellant will have liberty to proceed in accordance with law, if permissible.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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