

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 18375 of 2014

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1. Dr. Arun Kumar Jha, Son of Sri Indrakant Jha, resident of 6/RC-6, Bahadurpur Housing Colony, Police Station- Agumkuan, District- Patna.
 2. Kumar Virendra Sinha, S/o- Late Rajendra Prasad, Resident of E-103 Monicaa Apartment, Khajpura, P.S.- Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Department, Govt. of Bihar, Patna.
3. The Hon'ble Chancellor, Rajbhawan, Patna.
4. The Magadh University, Bodh Gaya, through the Registrar.
5. The Vice Chancellor, Magadh University, Bodh Gaya.
6. The Vice Chancellor, Magadh University, Bodh Gaya.
7. Registrar, Magadh University, Bodh Gaya.
8. Ex-Acting Vice Chancellor, Magadh University, Bodh Gaya, presently Department of Botany, Magadh University, Bodh Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar and Mr. Sunil Kumar, Advocates
For the State	:	Mr. Alok Kumar Rahi, A.C. to G.P. 21
For the University	:	Mr. Vipin Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 03-03-2017

Heard learned counsel for the petitioners, the State
and the Magadh University.

The petitioners have moved the Court seeking
quashing of notification dated 21.03.2014 issued by the Registrar of
Magadh University as contained in Memo No. PC/146/2014, by
which the provisional promotion granted to the petitioners vide
notification contained in Memo No. PC/190/2011 dated 20.04.2011,
has been cancelled.



The petitioners, after their appointment on the post of Lecturers, were promoted to the post of Reader and subsequently to the post of Professor. When payment as per the 6th Pay Revision Commission was also made to them, they moved the Court in C.W.J.C. Nos. 8809 of 2012 and 8836 of 2012 respectively and the matter was disposed off with a direction to the University authorities to consider the representation filed by the petitioners. It appears that under the garb of consideration of their representation, the Vice Chancellor referred the matter to a Review Selection Committee for considering the validity of the recommendation of promotion of the petitioners to the post of Professor. The said Committee gave an adverse report and the Vice Chancellor of the University has issued an order reverting the petitioners back to the post of Reader, which has been notified by the impugned order.

Learned counsel for the petitioners submitted that at the time of consideration of the promotion of the petitioners from Reader to Professor, a Screening Committee was constituted and on the basis of its recommendation, the matter was sent to the Selection Committee which approved their promotion, and thereafter the matter was taken to the Syndicate of the University, which has also give its seal of approval and the same was followed by notification of the University promoting the petitioners, along with others, to the post of



Professor, the only stipulation being that it was subject to approval of the Human Resources Development Department, Government of Bihar. Learned counsel submitted that though such stipulation was there, but in view of the letter of the State Government itself, contained in Memo No. 1584 dated 09.06.2011 of the Human Resources Development Department, addressed to the Registrar of the Magadh University, it has been stated that the approval sought by the University with regard to the promotion of the petitioners, along with others, as contained in notification No. PC/190/2011 dated 20.04.2011, was not required on the ground that there is no provision of granting approval by the State Government in the relevant statute. Learned counsel submitted that besides the aforesaid, the glaring illegality in the present case is that the Review Selection Committee never gave any notice or opportunity to the petitioners to present their case and further that such recommendation having been acted upon by the University is illegal. Learned counsel submitted that even the Vice Chancellor of the University has only such power as conferred on him under Section 10 of the Bihar Universities Act, 1976 (hereinafter referred to as the 'Act') and the same does not include any power to sit over or go behind and review a decision which has been ratified by the supreme body of the University i.e., the Syndicate.



Learned counsel for the State submitted that it has no role to play, as under the provisions of the Act, there is no requirement of any approval by the State Government.

Learned counsel for the University submitted that though he has filed a counter affidavit with regard to the issue raised on behalf of the petitioners, but in view of submissions of learned counsel for the petitioners, as noted above, which is based on the statutory power of various authorities of the University under the Act, including the Syndicate and the Vice Chancellor, the order impugned may not be valid.

Having considered the rival contentions, in the considered opinion of the Court, the impugned order cannot be sustained. The Vice Chancellor not having the power to go behind or call for a review of the order of the Syndicate at his level and also the Committee which was set up for review of the case of the petitioners, having acted unilaterally, without any notice to the petitioners and the adverse recommendation acted upon, by the Vice Chancellor by withdrawal of the promotion given to the petitioners, is totally arbitrary. Neither learned counsel for the State nor for the Magadh University was able to defend or show any legal basis for the same.

In the result, the writ petition succeeds. The impugned order dated 21.03.2014 stands quashed. The University is



directed to take consequential steps consequent upon setting aside of the order impugned.

It goes without saying that upon setting aside of the order impugned, the position, as it existed prior to the issuance of the impugned order, stands revived.

(Ahsanuddin Amanullah, J.)

P. Kumar

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