

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13251 of 2014

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1. Ashok Kumar Singh son of late Barmeshwar Singh resident of village Bahiro, Police Station - Nawada, Ara, District - Bhojpur Teacher's representative of Bindeshwari Dubey College, Bihia, Bhojpur.

2. Tripurari Shankar Suman son of Sri Kailash Prasad resident of village Gilani, Police Station - Sare, District - Nalanda, at present Head Accountant, Bindeshwari Dubey College, Bihia. Petitioner/s

Versus

1. The State of Bihar.

2. The Principal Secretary, Higher Education, Government of Bihar, New Secretariat Building, Bailey Road, Patna 800001.

3. The Director, Higher Education, Government of Bihar, New Secretariat Building, Patna.

4. The Additional Director, Higher Education Government of Bihar, New Secretariat Building, Patna.

5. The Vice Chancellor, Veer Kunwar Singh University, Bhojpur at Ara.

6. The Registrar, Veer Kunwar Singh Univeristy, Bhojpur at Ara.

7. The Inspector of Colleges, (Science), Veer Kunwar Singh University, Bhojpur at Ara.

8. The Inspector of College, (Arts & Commerce), Veer Kunwar Singh University, Bhojpur at Ara.

9. The Chairman, Bihar School Examination Board (Senior Secondary), Budh Marg, Patna. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahasweta Chatterjee, Advocate

For the Respondent/s : Mr. Ashok Kumar, S.C.-11

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

9 19-06-2017 The petitioners No. 1 and 2 claim that they are serving as Teachers and Non-Teaching Employees respectively in Bindeshwari Dubey College, Bihia, Bhojpur. They seek a direction to the respondents to take necessary steps for issuance of order granting affiliation to the said institution for conducting B.A. Pass Course and B.Com. Pass and Honours Course to the said College. During the pendency of the writ application, the claim of the College for grant of status of affiliated college was rejected by



an order dated 01.09.2014. The petitioners seek to challenge the said order dated 01.09.2014 by seeking amendment in writ application to I.A. No. 5908 of 2016.

When the matter was taken up on the last occasion i.e. 10.05.2017 the Court had posed a question that when the Managing Committee of the College has not approached the Court for the said relief and the body, which has established and running the College has no grievance against the University or the State Government, whether the petitioners can establish their legal right to maintain this application.

The answer to the question lies directly in Division Bench decision in case of ***The State Government of Bihar and Ors. v. Parvati Kumari and Ors.*** reported in ***C.W.J.C. No. 13136 of 2001*** paragraph Nos. 45, 50, 51 and 52 of which reads thus:

“ 45. We are, therefore, of the considered view that no writ, in the nature of writ of certiorari, quashing the order, passed by the Secretary, Department of High Education, dated 09.11.2001, could be issued, at the instance of the employees of the College, particularly, as the said order, dated 09.11.2001, was passed in a dispute between the Governing Body of the College and the State of Bihar, which was remitted by this Court, by an order,



dated 09.07.1998, passed in C.W.J.C. No. 4733 of 1997.

50. Concluding, thus, we hold that the writ petitioners, who were mere employees of the College, in question, could not have maintained the writ applications raising the grievances, as raised therein, particularly, when the College did not challenge the order, dated 09.11.2001, passed in compliance of this Court's order. We further hold that the observations, made by the learned single Judge in paragraph 38 of the judgment, under appeal, that writ petitioner No. 1, being ex-officio member of the Governing Body treating herself to be the Governing Body of the College, she being the Principal and, therefore, the ex-officio member of the Governing Body, is an apparent error of record. Facts, noted above, come to show that the Governing Body of the College did not challenge the order, dated 09.11.2001, at any stage, before any forum, before filing of C.W.J.C. No. 2082 of 2015 in February, 2015.

51. The writ petitioners were not able to make out any legal right, which existed with them, alleged violation of which could give rise to a writ



application, under Article 226 of the Constitution of India.

52. In the facts and circumstances of the case at hand, the writ petitioners have not been able to show that they had legally and judicially enforceable right, which stood adversely affected by any action of the public authority, necessitating this Court to issue a writ/order/direction in exercise of power under Article 226 of the Constitution of India.”

Learned counsel for the petitioners has relied on Division Bench decision of Allahabad High Court in case of ***Yogendra Nath Singh and Another v. State of U.P. and Ors.*** reported in ***1999(2) UPLBEC 1318*** to contend that the petitioners have *locus standi*.

In view of Division Bench decision of this Court, view squarely holds the field, I need not consider said Division Bench decision of Allahabad High Court.

This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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