

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3474 of 2017

=====

1. Shree Moti Singh Memorial Society through its Secretary namely Rama Kant Singh having its Registered Office at Bara Telpa, P.O. Chapra, P.S.- Chapra Town, District Saran, State Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through its Commissioner cum Secretary, Department of Health, Bihar, New Secretariat, Patna.
2. Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur, Bihar through its Registrar.
3. Vice-Chancellor, Baba Sahab Bhimrao Ambedkar Bihar University, Muzaffarpur.
4. The Registrar, Baba Sahab Bhimrao Ambedkar Bihar University, Muzaffarpur.
5. The Secretary, Central Council of India Medicine, Registered Office- 61-65, Institutional Area, Janakpuri, D Block, New Delhi.
6. The Director, Indigenous Medicine, Government of Bihar, Patna.
7. The District Magistrate, Saran at Chapra.
8. The Sub Divisional Officer, Sadar, Chapra, Saran.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Adv.

For the BRA, Bihar University : Mr. P.N. Shahi, Sr. Adv.

Mr. Santosh Kr. Jha, Adv.

For the State : Mr. Vinod Kr. Yadav, S.C.18

=====



**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 15-05-2017

The petitioner claims to be a Society, registered under the Societies Registration Act 21, 1860, in the name and style of "*Shri Moti Singh Memorial Society*", with its object to promote technical education, like Engineering, Medical (Ayurvedic, Allopathic and Homeopathic) and other allied activities. It is the claim of the petitioner that Chapra Ayurved Mahavidyalaya was established by the said Society and to manage and run the affairs of the said College, a Managing Committee was constituted. In course of time, the condition of the said Chapra Ayurved Mahavidyalaya deteriorated. It is the further case of the petitioner that subsequently a Governing Body was constituted and the Institution was re-established and rechristened as "*Shri Moti Singh Jageshwari Ayurved Mahavidyalaya Avam Chikitsalya*" (S.M.S.J. Ayurved College and Hospital, Chapra).

2. The grievance of the petitioner is against an order, dated 04.02.2017, issued under the signature of the Registrar, Baba Saheb Bhimrao Ambedkar Bihar University, Muzaffarpur (*hereinafter referred to as the*



'University'), whereby, a Governing Body for the said College has been constituted.

3. In compliance of this Court's previous orders, the Registrar of the University is personally present.

4. A supplementary counter affidavit has been filed on behalf of respondent Nos. 2 to 4, which has been sworn by the Registrar of the University. Let it be kept on record.

5. From what has been stated in the said supplementary counter affidavit, it is evident that it is the specific stand of the Vice-Chancellor of the University that the said Governing Body has been fraudulently constituted without adopting the proper procedure. The averments made in paragraphs 5 to 11 of the said supplementary counter affidavit are relevant and are being reproduced hereinbelow:-

"5. That for the sake of clarity it is stated that the petitioner in the writ application has stated that the university has not heard and taken decision for constitution of governing body. The university is keenly interested to redress the grievances of the petitioner



and for this the Vice Chancellor has fix the date on 28.04.2017 for hearing of the petitioner. That the petitioner has already been informed to this regard vide letter no. 195/L dated 15.04.17.

6. That pursuant to the letter dated 15.04.17 fixing the of meeting as 28.04.17, the meeting was held on 28.04.2017 and the petitioner had deliberated in the said meeting.

7. That it is stated that the answering respondent i.e the registrar had issued show cause notice dated 24.04.2017 to the Erstwhile registrar and the Assistant U.D. Assistant, Inspection section, whereby inter alia they where asked to locate and submit the original in the office of the registrar.

8. That being dissatisfied by the reply submitted by the Erstwhile registrar and the assistant in pursuant to the show cause notice dated 28.04.2017, the present registrar once again had issued show cause notice dated 05.05.2017 to the Erstwhile



registrar and the Assistant U.D. Assistant, Inspection section, whereby inter alia they were asked to locate and submit the original in the office of the registrar, they were also asked as to why office order as contained and communicated vide 472/R dated 4.02.2017 was issued without the original file relating to Moti Singh Jageshwari Ayurvedic College and hospital Chapra.

9. That further more it is stated that vide office order dated 27.04.2017 as contained in memo no. B/244, the Vice Chancellor has constituted a committee consisting of dean, Students welfare (D.S.W) and coordinator College Development Council (C.C.D.C) to enquire into whole matter and submit its report.

10. That the committee constituted vide office order dated 27.04.2017 enquired into the matter and has submitted its report vide memo no. B/244 Dated 27.04.2017 and the committee inter alia has concluded that the office order



as communicated vide memo no. 472/R dated 04.02.2017 was issued without going through the original file.

11. That it is submitted that the answering respondent i.e the registrar of the BRA university has recently joined in the month of February and thus was unaware of the present case, therefore, some time may be granted by the honorable court for bringing on record the facts that the grievance of the petitioner has been redressed and the order and directions given this honorable court has been complied with."

6. I would have proceeded to quash the impugned order, on the basis of what has been averred in the said supplementary counter affidavit, as quoted above, but it cannot be so done in the absence of newly constituted Governing Body as party respondent on record. Therefore, in the facts and circumstances of the case, I consider it appropriate to dispose of the writ application with a direction to the Vice-Chancellor and Registrar of the University to take a final decision on the question of recall of the said order, dated 04.02.2017, within a period of four



(4) weeks from today after giving the newly constituted Governing Body, through its Secretary, and the petitioner an opportunity of hearing.

7. This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18/05/2017
Transmission Date	

