

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.856 of 2014
IN
Civil Writ Jurisdiction Case No. 4382 of 2014**

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Gopi Chandra Thakur Son of Ruplal Thakur resident of Mohalla- Kasera Pokhar
Ward no. 4, Madhubani, P.S+ Post+ Town- District- Madhubani.

.... Appellant

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. Lalit Narayan Mithila University Kameshwar Nagar Darbhanga, through its Vice- Chancellor.
4. The Registrar, L.N.M.U., Kameshwar Nagar, Darbhanga.
5. The Principal R.K. College, Madhubani.

.... Respondents

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Appearance :

For the Appellant : Mr. Dharendra Kumar Jha, Advocate

For the Respondent State: Mr. Kamlesh Kishore, AC to SC-12

For the Respondent University: Mr. Ajay Bihari Sinha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 24-03-2017

Heard counsel for the appellant and counsel for the respondents.

The finding, which has been given with regard to the claim of the petitioner, who is appellant now, has been put in the right perspective and the same, therefore, is reproduced for ready reference :

“(i) The initial engagement of the petitioner was made on a Class IV post by the Principal of the constituent College, who has never been vested with such power. The submission of Mr. Jha that



it was made in anticipation of the approval of the Vice Chancellor of the University has to be only noted for its being rejected. The Principal having vested with no power his entire action taken for regularization of services of the petitioner as a Class IV employee was wholly unauthorized act and could not have been bound the University.

(ii) Even in such engagement on daily wages guaranteed under Articles 14 and 16 of the Constitution was not followed, inasmuch as neither the posts were advertised by the Principal nor the selection process was undergone. Consequently initial engagement of the petitioner by an incompetent authority on daily wages in the College was also in negation to the provisions of Articles 14 and 16 of the Constitution of India and thus void.

(iii) After the finding has been recorded that the petitioner's working on daily wages by way of remuneration could be established only for a period of six years, this Court will have also no difficulty in holding that mere filing of an application by the petitioner for regular appointment pursuant to an advertisement issued by the University would clothe him with no right at least for regularization. If that be so every applicant to that advertisement has come out with similar claim."



The learned single Judge also took note of a Full Bench decision rendered in the case of *Ram Sewak Yadav Vs. The State of Bihar*, reported in 2013(1) PLJR 964, and the position laid down therein replies to the facts of the present case.

No interference, therefore, is warranted with the order of the learned single Judge. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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