

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8093 of 2016

=====

Kirtinath Jha, Son of late Durganath Jha, Resident of Village- Bitho, P.S.- Sarisabpahi,
P.S.- Pandaul, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
3. The Bhupendra Narayan Mandal University, Laloonaagar, Madhepura through the Vice Chancellor.
4. The Registrar, the Bhupendra Narayan Mandal University, Laloonaagar, Madhepura.
5. The Principal, H.P.S. College, Nirmali, Supaul, Town, P.S. and District- Supaul.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dhirendra Kumar Jha, Adv. Ms. Shiva Kumari, Adv.
For the Respondent-State	:	Mr. Shashi Shekhar Pd. Sinha, AC to GA-6
For the Respondent-University:	:	Mr. Shashi Bhushan Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 07-02-2017

Heard Mr. Dhirendra Kumar Jha, learned counsel appearing on behalf of the petitioner, counsel for the State and Mr. Shashi Bhushan Singh, learned counsel appearing for the University.

The petitioner is aggrieved by the order dated 1.12.2015 passed by the Registrar, Bhupendra Narayan Mandal University, Madhepura, whereby the petitioner who happens to be a Lecturer in H.P.S. College, Nirmali in the district of Supaul has been suspended with retrospective effect i.e. from the date he has been taken into custody and by the same order the petitioner has been subjected to a disciplinary proceeding in which the charge has been served, a copy of which is enclosed at Annexure 'A' to the counter affidavit filed today.

Mr. Jha, learned counsel appearing for the petitioner



questions the impugned order of suspension on grounds that it is on the basis of an event which took place more than a decade back in the year 2000 when the petitioner was taken into custody following his conviction in a criminal case.

I have heard learned counsel for the parties and I have perused the records.

Considering that the foundation for the suspension order rests on the conviction of the petitioner in a criminal case and which conviction is yet to be set aside by a superior court even if the order of suspension would not operate retrospectively and to that extent it shall be held to be invalid its prospective operation cannot be put to question.

That the disciplinary proceeding has also been initiated against the petitioner he would be well advised to participate in the same. The respondents would be equally well advised to conclude the disciplinary proceeding in accordance with law with due opportunity of hearing to the petitioner.

Not finding sufficient cause to grant indulgence to the order of suspension in so far its prospective effect is concerned, the writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09-02-2017
Transmission Date	NA

