

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17072 of 2016

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Dr. Mushtaque Ahmad Son of late Abdul Hakim, Resident of Rahamganj, P.S.-
Laheriasarai, P.O.- Lalbag, District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Lalit Narayan Mithila University through its Vice- Chancellor, Kameshwarnagar, Darbhanga.
4. The Vice-Chancellor, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
5. The Registrar, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
6. The Enquiry Committee through its Convenor Dr. Muneshwar Yadav, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
7. The Chancellor of Universities of Bihar, Rajbhawan, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Kishore, Sr. Advocate
For the State	:	Mr. Priyadarshi Mati Sharan, AC to AAG 15
For the University	:	Mr. Ajay Bihari Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 07-09-2017

Heard learned counsel for the petitioner, State and Lalit
Narayan Mithila University, Darbhanga (hereinafter referred to as the
'University').

2. The petitioner has moved the Court for the following
reliefs:

*"1. That the present writ application is being
filed for quashing of the orrer dated 07.09.2016,
passed in LMNU-27/2016 (Dr. Mushtaque Ahmad Vs
L.N.M. University, Darbhanga & Ors.) passed by his
Excellency the Chancellor of the Universities, Bihar*



whereby and where under an appeal preferred by the petitioner has been dismissed with a direction to the Lalit Narayan Mithila University, Darbhanga (Herein after referred as university for the sake of brevity) to complete the departmental proceeding with a period of three months from the date of the order, without appreciating this fact that the very initiation of the departmental proceeding is tainted with malafide intention, arbitrariness and initiated with an intention to humiliate and tarnish the image of the petitioner.

2. That the petitioner further prays before this Hon'ble Court for quashing of the notification contained in Memo No. 10179-293/16 dated 02.07.2016 issued by order of the Vice Chancellor, university whereby and where under the petitioner has been suspended from the post of Principal, Marwari College, Darbhanga with immediate effect on the basis of alleged prima facie evidence available against him for corruption, gross-misconduct, dereliction of duty and misappropriation of fund under the provisions as contained in Article 10 (2) of the statutes related to General Condition of Service.

The suspension of the petitioner is marked with malafide intention, vendetta and a reward for doing work in accordance with law. Though suspension order does not indicate that a departmental proceeding will be initiated against the petitioner nor any initiation of such proceeding has been communicated to the petitioner till date. Though suspension is not penal in



nature but the present suspension is penal and inflicted upon the petitioner to humiliate him and tarnish his image, which is evident from the averments made herein after.

The disciplinary committee took the decision to suspend the petitioner i.e. on 27.06.2016 which is prior to the enquiry report dated 28.06.2016, which shows the arbitrariness of the whole evident.

3. That the petitioner further prays to quash the enquiry report dated 28.06.2016 submitted by the enquiry committee consisting of five members, constituted by the vice chancellor of the university vide notification dated 15.06.2016 as the same is loaded with wrong facts and conclusion which is not in conformity of the real fact and for any other relief/reliefs this Hon'ble Court may find fit and proper in the facts and circumstances of the present case.

The aforesaid enquiry committee has one Convenor namely Dr. Muueshwar Yadav, against whom the petitioner had taken action hence this has caused prejudice the petitioner and in this view of the matter also whole enquiry report is fit to be set aside."

3. At the very outset, Mr. Ajay Bihari Sinha, learned counsel for the University submitted that as per the instructions received by him on telephone, the suspension of the petitioner has been revoked and he has also been posted as principal in a college. It was further submitted that as of now there is no proceeding pending



against the petitioner but the petitioner has given a written undertaking that if in future there is any enquiry with regard to any charge of misconduct, he shall cooperate in the enquiry and assist in the enquiry which shall be conducted.

4. Learned counsel for the petitioner submitted that such decision of the University has also been approved by the Syndicate.

5. In view of the categorical stand taken on behalf of the University, the writ petition stands disposed off.

(Ahsanuddin Amanullah, J)

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