

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.564 of 2016

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Raj Kant Mishra, S/o Late Buchhi Mishra, Class IV Employee, T.M. Bhagalpur University Press, Bhagalpur, P.S.- Nathnagar, Town & District- Bhagalpur.

.... Petitioner/s

Versus

1. The T.M. Bhagalpur University, Bhagalpur through its Registrar.
2. The Vice- Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. The Pro Vice- Chancellor, T.M. Bhagalpur University, Bhagalpur.
4. The Registrar, T.M. Bhagalpur University, Bhagalpur.
5. The Finance Officer, T.M. Bhagalpur University, Bhagalpur.
6. The Press Manager/Press Superintendent, T.M. Bhagalpur University Press, Bhagalpur, P.S.- Nathnagar, Town & District- Bhagalpur.
7. The Civil Surgeon-cum-the Chief Medical Officer, Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate

For the University : Ms. Rekha Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL ORDER

5 17-11-2017 Heard learned counsel for the petitioner and T. M. Bhagalpur University (hereinafter referred to as the ‘University’).

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

“ (i) Issuance of an order, Direction or a Writ in the nature of Certiorari for quashing of the Office Order No. 501/2015, contained in Memo No. 16679-97 dated 03.12.2015 [Annexure 8-(Order Impugned)], issued by Respondent No. 4, whereby and where under Petitioner’s date of superannuation from the services of the respondent University Press has been notified as 31.03.2016.



(ii) To hold and declare that the date of birth of the petitioner is 13.06.1961, as has been recorded in the petitioner's Transfer Certificate No. 80 dated 15.01.1977, issued by the Headmaster, Lakshmishwar Acadely, Sarisab, P.O.-Sarisab Pahi, District-Darbhanga (Ann-2) and based there upon the petitioner is entitled for continuing in the services of the Respondent University till 30.06.2026 instead of 31.03.2016.

AND CONSEQUENT UPON SUCH DECLARATION

(iii) A writ in the nature of Mandamus may be issued commanding the authorities concerned of the T.M. Bhagalpur University to allow the petitioner to continue in the services of the Respondent University till 30.06.2026, taking into account his date of Birth as 13.06.1961, which has been recorded in petitioner's Transfer Certificate No. 80 dated 15.01.1977, issued by the Headmaster, lakshmishwar Academy, Sarisab, P.O. – Sarisab Pahi, District –Darbhanga (Annexure-2).

OR IN ALTERNATIVE

(iv) A writ in the nature of Mandamus may be issued commanding the authorities concerned of the T. M. Bhagalpur University to order for holding Medical Examination of the Petitioner by a Medical Board, even at the cost of the petitioner, for the purpose of assessing the age of the petitioner. And upon receipt of such



report of the Medical Board, the respondents concerned may be suitably directed to deal with the case of petitioner's retirement from the services of the Respondent University.

(v) For grant of any other relief of relief's to which the Petitioner may be found entitled to, in the facts and circumstances of this case."

3. In sum and substance, the dispute relates to fixing of the age/date of birth of the petitioner. It is admitted position that the University has disputed the date of birth, which is claimed by the petitioner.

4. After some arguments, learned counsel for the petitioner submitted that the writ petition be disposed off with liberty to the petitioner to appear before the Competent Authority, who may get the age/date of birth of the petitioner ascertained scientifically, i.e., by a Medical Board.

5. Learned counsel for the University agrees to such suggestion.

6. In view thereof, the writ petition stands disposed off with liberty to the petitioner to appear before the Vice Chancellor of the University within three weeks from today along with a copy of this order.

7. Upon doing so, the Vice Chancellor of the University shall ensure that the matter with regard to determining



the age/date of birth of the petitioner is referred to the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur for determining the age/date of birth of the petitioner by a duly constituted Medical Board.

8. To facilitate matters, let learned counsel for the petitioner implead the Civil Surgeon-cum-Chief Medical Officer, Bhagalpur as respondent no. 7. Necessary correction be made in the cause title of the writ petition by learned counsel for the petitioner during the course of the day.

9. The respondent no. 7 is directed to ensure that the petitioner is examined by a duly constituted Medical Board and report submitted within two weeks of the matter being referred to him.

10. It goes without saying that depending on the report/opinion of the Medical Board, consequences shall follow and the authorities as well as the petitioner shall be bound to accept the said fixing of age/date of birth of the petitioner.

(Ahsanuddin Amanullah, J)

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