

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19168 of 2015

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Professor Dr. Dwijendra Gupta, aged about 58 years, Son of Sri B. Ram Chandra Gupta Resident of B-169, Mehdauri Colony, Post office, Teliaganj, Policen Station- Shivkuti, District Allahabad, State of U.P. Presently Vice -chancellor of Jai Prakash University , Chapra in the District Saran.

.... Petitioner

Versus

1. The State of Bihar , through the Principal Secretary, Department of Education , Government of Bihar, Patna.
2. The Principal Secretary, Department of Education , Government of Bihar, Patna.
3. The Principal Secretary of Hon'ble Governor-cum-Chancellor of Universities , Bihar Raj Bhawan, Patna (Jai Prakash University, Chapra)
4. The J.P University, Chapra through its Registrar.
5. The Pro Vice-Chancellor , Jai Prakash University, Chapra.
6. The Director General, State Vigilance Investigation Burearu, Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shashi Anugrah Narayan, Sr. Adv.
Mr. Gyan Prakash, Adv.
For the Respondent State: Mr. Manish Kumar, AC to AAG-6
For the Chancellor : Mr. Rajendra Kumar Giri, Adv.
For the Vigilance : Mr. Santosh Kumar Pandey, Adv.
For the University : Mr. Hansraj, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-01-2017

Heard Mr. Shashi Anugrah Narayan, learned Senior Counsel,
who appears alongwith Mr. Gyan Prakash, for the petitioner, Mr.
Rajendra Kumar Giri, learned counsel for the Chancellor, Mr. Santosh
Kumar Pandey, learned counsel appearing for the Vigilance and Mr.
Manish Kumar, AC to AAG-6, for the State.

With the consent of the parties the writ petition has been
heard with a view to final disposal at the stage of admission itself.

The petitioner is aggrieved by the order dated 2.12.2015



passed by the Chancellor, Jai Prakash University, Chapra, in purported exercise of power vested in him under section 11(1) of the Bihar State Universities Act, 1976 (hereinafter referred to as 'the Act'), whereby the petitioner has been directed to submit his resignation on 2.12.2015, failing which it shall be deemed as stipulated under section 11(3) of the Act that the petitioner has resigned from the office of the Vice Chancellor, Jai Prakash University, Chapra. The order has been communicated through letter dated 2.12.2015 of the Principal Secretary to the Governor and is impugned at Annexure 1 to the writ petition.

While the foundation for the order of removal rests on a vigilance case arising from Vigilance Case No. 10/2015 in which charge sheet already has been submitted on 12.10.2015 under sections 409, 420, 467, 468, 477A/34/120B of the Indian Penal Code read with Section 13(2) and Section 13(1)(d) of the Prevention of Corruption Act, 1988, the main plank of argument of Mr. Narayan, learned Senior Counsel, is in reference to the letter dated 27.11.2015 issued through the Governor Secretariat addressed to the petitioner, whereby a three-Member Committee report on an enquiry conducted under section 9(2) of 'the Act' has been served on the petitioner for its circulation amongst the Members of the Syndicate and Academic Council of the University for submission of their comment. According to Mr.



Narayan, this report reached the University on 3.12.2015 and even before any explanation could be given thereto, that the order of removal has been passed.

The second issue that has been raised by Mr. Narayan to question removal is that the required papers were never handed over to the petitioner to enable him to file a purposeful show cause reply.

The argument of Mr. Narayan has been contested by the learned counsel appearing for the State, the Chancellor as well as the learned counsel for the Vigilance Department. Mr. Giri, learned counsel appearing for the Chancellor, in reference to counter affidavit filed in the proceedings has submitted that the three-Member Committee report has got nothing to do with the action taken, rather the enquiry was conducted on receipt of certain complaints alleging financial irregularities in the University and when the Chancellor in exercise of power vested under section 9(2) of 'the Act' constituted a three-Member Committee who submitted their report on 9.10.2015 and which was forwarded for comments from the University authorities. He submits that in between the criminal case was instituted and charge sheet was submitted by the investigating agency which was forwarded to the Chancellor for obtaining sanction. This development necessitated a proceeding under section 11 of 'the Act' against the petitioner for his removal because the charges were very



serious. According to Mr. Giri, the proceeding initiated against the petitioner under section 11 of 'the Act' and the report prepared under section 9 of 'the Act' even though may be overlapping but are two distinct exercises.

Learned counsel for the Vigilance has invited attention of this Court to the affidavit filed today in which he has stated that the petitioner has twice earlier moved this Court questioning the vigilance case and while the criminal writ petition arising from Cr.W.J.C.No. 167/2015 filed for quashing of the First Information Report was dismissed by a Co-ordinate Bench of this Court on 1.9.2015, a similar challenge to the proceedings on issue of sanction also met with no success and the criminal writ petition arising from Cr.W.J.C.No. 1313/2015 filed in this regard has also been dismissed by a Bench of this Court vide judgment and order passed on 4.4.2016.

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

Section 11 of 'the Act' provides for removal of the Vice Chancellor and enables the Chancellor to hold enquiry if considered necessary in the circumstances discussed in the provisions itself warranting removal. Section 11 of 'the Act' reads thus:

"11. Removal of the Vice-Chancellor.-(1) If at any time and after such inquiry as may be considered necessary, if appears to the Chancellor that the Vice-Chancellor-



- (i) has failed to discharge any duty imposed upon him by or under the Act, the Statutes, the Ordinances, or
 - (ii) has acted in a manner prejudicial to the interests of the University, or
 - (iii) is incapable in managing the affairs of the University, then the Chancellor may, notwithstanding the fact that the term of office of the Vice-Chancellor has not expired, require, the Vice-Chancellor by an order in writing stating the reason thereof, and after consulting the State Government, to resign his post from the date, as may be specified in the order.
- (2) No orders under sub-section (1) shall be passed unless a notice stating the specific grounds on which such action is proposed has been served and a reasonable opportunity to show cause against the proposed order has been given to the Vice-Chancellor.
- (3) On and from the date specified in sub-section (1), it shall be deemed that the Vice-Chancellor has resigned his post and the office of the Vice-Chancellor shall be deemed vacant."

It is not in dispute and rather confirmed from the impugned order of removal impugned at Annexure 16 that the foundation for removal of the petitioner rests on the vigilance case in which charge sheet has been submitted on 12.10.2015 on according sanction by the Chancellor. Section 11(1) of 'the Act' enables the Chancellor to



remove the Vice-Chancellor in the circumstances discussed thereunder and which inter alia includes: (a) a failure by the incumbent to discharge the duty imposed upon him under the Statutes; (b) when the incumbent has acted in a manner prejudicial to the interests of the University; or (c) when the incumbent is incapable in managing the affairs of the University. The stipulations may be overlapping. That a criminal case under the provisions of the Penal Code and the Prevention of Corruption Act has been instituted against the petitioner with a charge sheet also being submitted and cognizance having been taken coupled with the fact that the challenge by the petitioner to the institution of the vigilance case as well as to the sanction, met with no success, I am satisfied that the circumstances were substantially existing for the impugned action and which suffers from no infirmity. The petitioner holding the high office of a Vice Chancellor of the University, having been subjected to a criminal case on corruption charges, the order of removal was the need of the hour and has been rightly passed. The reliance placed by Mr. Narayan, learned Senior Counsel, on the three-Member Committee report has been rightly distinguished by Mr. Giri as an administrative act which though overlapping was in a different context and may be it initiated the purported action but the stage at which the matter rests, no indulgence is called for in the order of



removal put to challenge.

For the reasons discussed, the writ petition is dismissed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2017
Transmission Date	NA

