

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1459 of 2014
IN
Civil Writ Jurisdiction Case No. 923 of 2013**

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Badri Nath Dubey S/o Late Ram Nath Dubey Resident of Village - Manipur, P.S. -
Bhanas, District - Rohtas.

.... Appellant

Versus

1. The State of Bihar.
2. The Secretary, Ministry of Human Resources and Development, Government of Bihar, Patna.
3. Veer Kunwar Singh University, Ara through its Registrar.
4. The Vice-Chancellor, Veer Kunwar Singh University, Ara.
5. Girish Narain Mishra College, Parsathua (Rohtas) through its Secretary.
6. The Principal, Girish Narain Mishra College, Parsathua (Rohtas).
7. The Secretary, Girish Narain Mishra College, Parsathua, Rohtas.

.... Respondents

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Appearance :

For the Appellant : Mr. K.N.Chaubey, Senior Advocate
Mr. Animesh Kumar, Advocate
Mr. Prashant Kumar, Advocate
Mr. Ambuj Nayan Chaubey, Advocate
Ms. Ritu Priyadarshiny, Advocate

For the Respondent/s : Mr.

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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: 04-05-2017

Writ application of the present appellant was dismissed vide order dated 11.02.2014. The relief, which the appellant had sought in the writ application, was for a writ of certiorari for quashing the decision dated 02.12.2011 issued by the Principal of an affiliated college, namely, Girish Narain Mishra College, Parsathua in the district of Rohtas. By the said order, the appellant was asked to superannuate on completion of 62 years of age. In the alternative, the



other relief was for a mandamus upon the respondent authorities to increase the age of superannuation from 62 to 65 with all consequential benefits.

There seems to have been very detailed assistance which were rendered by the learned senior counsel, who appeared even in the writ application and virtually all Rules and Statutes were pressed into service, but the learned single Judge after dispelling such arguments and submissions came to the following conclusion :

“17. Thus, a bare reading of Section 67 which will be applicable to the employees of the constituent College only in view of definition of College given under section 2(f) in contradistinction to the definition of the affiliated College under section 2(c) will leave nothing for speculation that Section 67 does not deal with the provision of age of retirement of the teaching employees of the affiliated College. The petitioner who was out and out a teaching employee of an affiliated College and for him Section 67 of the Act will have no application. In view of above, there will be no need to refer to the judgment given by this Court in the case of Dr. Sunity Pandey (supra), wherein all that was decided was that the UGC Regulation has been framed on 30th June, 2010 enhancing the age of retirement from 62 years to 65 years and therefore, the enhancement of age of



superannuation of the University teachers to 65 years would be made applicable with effect from 30.6.2010. This Court does not find anything in the aforementioned judgment which would apply to a teacher of an affiliated College and in fact Section 67 of the Act itself brooks no scope for two different interpretation that whatever age of retirement has been fixed by the Act is in relation to only teaching employees of the constituent Colleges of the University and not in relation to the affiliated College thereof.”

In addition to that since it is not a matter for argument that the College in question is in the hands of a private managing committee, therefore, the learned single Judge also, going by the ratio laid down in various decision, not only of the Hon’ble Apex Court but also a Division Bench decision of the Patna High Court, held that no relief could be granted in exercise of power by a writ Court in matters of decisions taken by a private managing committee.

The learned senior counsel representing the appellant despite the above finding and dismissal of the writ application submits that there was an error committed on the part of the learned single Judge where he ought to have taken into consideration two aspects that the age of superannuation of teachers across the State of



Bihar is 65, there was no reason for discrimination, which was practiced by the Principal of the College so far as the present appellant is concerned and such a decision was also set aside by the Vice Chancellor of the University. The learned single Judge has also answered the submission in the following words:

“15. As would be noticed while a right of appeal has been vested to the non-teaching staff of the College for moving the Syndicate against the decision taken by the Governing Body no similar provision has been made in the Statutes with regard to the teaching employees. Let it be made clear that the Vice Chancellor while passing the aforementioned order was also not exercising the power of Syndicate. The Vice Chancellor is only a Member and Chairman of the Syndicate but not the Syndicate and therefore, in no view of the matter he could have exercised the power of Syndicate so as to give any legality to his order dated 20.7.2012.”

The Court, therefore, does not find any legal infirmity insofar as application of law and maintainability of the writ is concerned in matters related to a private managing committee of an education institution when there is no power for the Vice Chancellor to exercise over and above the power which has been vested in the Syndicate.



Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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