

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16814 of 2015

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Rup Bihari Singh, Son of Late Raushan Singh, resident of village -
Bhakhra, P.O. Hansadih, P.S. Masaurhi, District - Patna (Bihar),
at Present residing at House No. L1/58, Shri Krishna Puri, Boring
Road, Patna 800001.

.... Petitioner/s

Versus

1. Magadh University, Bodh Gaya through its Registrar.
2. Vice-Chancellor, Magadh University, Bodh Gaya.
3. Registrar, Magadh University, Bodh Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri, Adv.

For the Magadh University : Mr. Priyank Deepak, Adv.

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH**

ORAL JUDGMENT & ORDER

Date: 07-04-2017

The petitioner seeks quashing of Memo No.
200/GIII B/15, issued under the signature of Registrar,
Magadh University, Bodh Gaya, whereby, existing Governing
Body of D.N. College, Masaurhi, Patna (*hereinafter referred to
as the "College"*), has been dissolved and in its place *Ad hoc*
Committee has been constituted. The said College is affiliated
to Magadh University, Bodh Gaya (*hereinafter referred to as*



the "**University**").

2. The petitioner claims to be a Donor, having donated to the said College an amount more than Rs. 25,000/-.

3. When this matter was taken up on 06.12.2016, this Court had made strong observations against the practice of having *Ad Hoc* Committees in place of duly constituted Governing Bodies for management of Colleges affiliated to Universities in the State of Bihar. The Court observed that such *ad hocism* cannot be allowed to continue for long.

The petitioner sought to maintain this application on his claim of being a Donor Member of the College. Since the claim of his status, as Donor Member of the College, was found to be under cloud, by a subsequent order, dated 22.12.2016, this Court had allowed the petitioner to provide necessary evidence to substantiate his claim of being Donor Member of the College before the Registrar of the University. The petitioner, in pursuance thereof, had submitted his evidence before the Registrar on 27.12.2016. His claim has, however, been turned down by the Registrar, which action of the Registrar has also been assailed, by way of amendment.

4. Facts of the case are quite disturbing. One Harinandan Singh had filed a writ application before this Court, giving rise to CWJC No. 17148 of 2011, raising certain



issues in relation to formation of the Governing Body of the said College. By an order, dated 28.03.2012, the said writ application was dismissed as not maintainable, in the light of a Division Bench decision of this Court in case of **Smt. Radha Kumari Singh Vs. The Governing Body of Mahanth Mahadevanand Mahila Mahavidyalaya**, reported in **1977 PLJR 110**. The Court, however, observed that dismissal of the writ application would not come in the way of the petitioner in filing a civil suit before a civil court of competent jurisdiction. The said order, dated 28.03.2012, was assailed by filing letters patent appeal before this Court, which gave rise to LPA No. 1058 of 2012. The letters patent appeal was disposed of as withdrawn by an order, dated 11.04.2013, by a Division Bench of this Court.

5. There is a notification, which has been brought on record by way of Annexure-5 to this writ application, issued by the University, in which it has been stated that the said notification was being issued in the light of the order of this Court passed in LPA No. 1058 of 2012. By the said notification, nominations, for the purpose of constitution of Governing Body of the College were made, against different categories. As regards category of Donor Members, it has been stated in the said notification that the same would be done after election, from amongst the Donor Members. The



said notification was marked to the petitioner also, describing him a Donor Member of the said College. There is another communication, dated 21.03.2013, made by the Registrar of the University to the Principal, D.N. College, Masaurhi, Patna, again shown to have been issued in the light of direction of this Court, asking the Principal of the College to submit a list of concurred teachers and all Donor Members so that process for election of Teachers Representative and Donor Member might be initiated as per statutes.

6. It is significant to note that there was no such order of this Court, which could have formed the basis for the Registrar of the University to mention it in his said communication, dated 21.03.2013, which has been brought on record by way of Annexure-6 to this writ application. In response to the said communication, dated 21.03.2013, the Principal of the College furnished a list of final Electoral Roll of the Donors of the College, which included five names, including this petitioner at Serial No. 2.

7. As has been indicated at the very outset, the petitioner claimed himself to be a Donor Member. There being dispute over that fact, this Court by the said order, dated 22.12.2016, passed in this case, as indicated above, had allowed the petitioner to provide necessary evidence with regard to his being a Donor Member of the College. The



petitioner submitted such evidence on 27.12.2016. The evidences, which he is said to have produced before the Registrar of the University, have been brought on record by way of Annexure-18 to the I.A. No. 2446 of 2017. The said I.A. No. 2446 of 2017 has been filed to amend the relief sought for in the writ application, for challenging a subsequent order, dated 28.02.2017, passed by the Registrar of the University, whereby, the petitioner's name has not been included in the category of Donor Members of D.N. College, Masaurhi, Patna.

8. I.A. No. 2446 of 2017 is allowed and, thereby, the petitioner is permitted to question the legality of the order dated 28.02.2017.

9. The *locus standi* of the petitioner, to maintain this writ application at all, will certainly depend on the question as to whether the University has rightly not included his name in the list of Donor Members. The petitioner has challenged dissolution of Governing Body on his claim of being a Donor Member of the College.

10. The Court had given indications to learned counsel for the petitioner that considering the nature of dispute, he could have raised his grievance before a competent court of civil jurisdiction.

11. Learned counsel, appearing on behalf of the



petitioner, however, has insisted that this case be decided on the basis of whatever materials have been brought on record in support of petitioner's claim of being Donor Member. In that view of the matter, I have proceeded to decide this case on the basis of evidences, which the petitioner had produced before the Registrar of the University and have been brought on record by way of Annexure-18 to I.A. No. 2446 of 2017.

12. There is a communication, dated, 18.09.1988, made by the Registrar and Returning Officer of the University, addressed to the Principal of the College, in which the petitioner has been shown to be a Donor Member. The draft Electoral Roll, dated 07.09.1988, is also there in which the petitioner has been shown as Donor Member. There is a notification, dated 02.09.1988, issued by the University, which contains list of the Donor Members of several affiliated Colleges. The most crucial is the details, in form of chart, prepared on 20.04.1988, which was furnished to the University, containing statement of Donors of said D.N. College, Masaurhi, Patna, who had donated more than Rs. 25,000/- to the College. The name of this petitioner figures at Serial No. 2. He is said to have deposited a sum of Rs. 1,001/- in the account of the College, maintained in Bank of India. He is said to have donated further a sum of Rs. 1,23,702/-, which amount he did not deposited in the account



of the College, rather he is said to have paid the said amount as salary of the employees of the said College in 1979, 1983 and 1984. There is no evidence on record to show as to who were the employees of the College, who were paid by the petitioner. There is, though, reference of receipt number in the said chart, the petitioner does not have the receipt with him. If the plea of the petitioner is to be accepted, he paid directly to the teaching and non-teaching employees of the College, their salaries for several years from his own pocket and payments were not routed through the College. The plea is absolutely preposterous and lousy and deserved to be rejected as worthless.

13. From the Enquiry Report, dated 28.02.2017, it appears that an Enquiry Team, comprising five persons, including the Auditor of the University, had visited D.N. College, Masaurhi, Patna, on 27.02.2017, and had asked the Principal of the College to produce the relevant records of the Donors. The enquiry was conducted in the presence of the petitioner. The petitioner did not submit any original document in support of such donation.

14. In such circumstance, I do not find the decision of the University of not including the petitioner's name in the list of Donor Members requiring interference by this Court. The petitioner miserably failed to establish his case that he



had donated a sum more than Rs. 25,000/- to the College to make him eligible to become a Donor Member.

15. This application has not merit and is, accordingly, dismissed.

16. Let the Governing Body of said D.N. College, Masaurhi, Patna, be constituted within a period of three (3) months from today.

17. All the interlocutory applications are disposed of accordingly.

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25/04/17
Transmission Date	

