

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4765 of 2017

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Dr. Jhangeswar Nath Pandey, aged about 69 Years, S/o Late Ram Kishun Pandey,
Resident of Mohallah- Bajrang Dham Colony, Chitaipur, Varanasi, District-
Varanasi (Uttar Pradesh).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department
Higher Education Government of Bihar, Patna.
2. The Magadh University through its Registrar, Magadh University, Gaya.
3. The Vice Chancellor, Magadh University, Bodh Gaya, District- Gaya.
4. The Registrar, Magadh University, District- Gaya.
5. The Finance Officer, Magadh University, District- Gaya.
6. The Principal, Gaya College, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Virendra Prasad, Advocate
For the Magadh University	:	Mr. Shivendra Kishore, Sr. Advocate
		Mr. Priyank Deepak, Advocate
For the State	:	Mr. Kameshwar Kumar, G.P. 17
		Mr. S. K. Ranjan, A.C. to G.P. 17

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 12-03-2018

Heard learned counsel for the petitioner; State and
Magadh University.

2. Pursuant to order dated 16.02.2018, Mr. Sudhir Kumar Singh, Under Secretary, Education Department, Government of Bihar, who had affirmed the earlier affidavit dated 20.09.2017, is present and has filed his show cause and also a supplementary counter affidavit.

3. The reason the Court had required his presence was that learned counsel for the petitioner had informed the Court on the



last occasion that the statement made by the deponent in the affidavit that the L.P.A. preferred by the State against the order passed in C.W.J.C. No. 176 of 2013 and analogous cases was still pending, which was totally incorrect and the Letters Patent Appeal had stood dismissed on 26.07.2017. Today from the materials brought on record in the show cause, it transpires that against the order passed in C.W.J.C. No. 176 of 2013, the State had preferred L.P.A. No. 241 of 2015 and this number was also mentioned in the counter affidavit filed on behalf of the respondent no. 1 at paragraph no. 8. The said L.P.A. along with other analogous cases was dismissed on 21.11.2017, copy of the same has been made Annexure-A to the show cause. Thus, the stand is that in September, 2017, when the affidavit was affirmed/filed, the said L.P.A. was still pending.

4. When the Court called upon learned counsel for the petitioner to explain as to how such statement was made, he insisted that L.P.A. No. 1114 of 2014 also arose out of C.W.J.C. No. 176 of 2013. Thus, the Court got the matter verified from the Registry as to the writ out of which L.P.A. No. 1114 of 2014 arose. It was found that the L.P.A. No. 1114 of 2014 arose out of C.W.J.C. No. 10085 of 2010. When confronted, learned counsel for the petitioner had no explanation to offer.

5. The Court records its deep anguish at such conduct of



learned counsel for the petitioner. The Court under *bona fide* impression that whatever learned counsel will state before the Court is factually correct, proceeds on such statement and even records it in its order. Today, the Court finds that such reliance on the statement of learned counsel was totally misplaced and the Court finds itself let down by its own officer. It has made the Court realize that the reliance placed on statement made at the Bar by learned counsel should not be taken at its face value in future and they should be put to strict verification and proof of any submission made on facts.

6. Be that as it may, for such conduct, the Court deems it appropriate to impose cost of Rs. 25,000/- on the petitioner for having misled the Court resulting in calling of an officer, who had not done any wrong. The same be deposited with the Bihar State Legal Services Authority within three weeks and receipt filed in the Registry.

7. Coming to the merits of the matter, in the supplementary counter affidavit filed on behalf of respondent no. 1, the stand is that steps are being taken to bring about appropriate amendment in terms of the order of the Court in the case of **Nawal Kishore Sharma vs. State of Bihar** reported as **2017(3) PLJR 38**. The Court would pause here and indicate that the order of the Court is to be implemented and is not subject to any opinion or



amendment. It is a different matter that the State may go for an amendment to bring in conformity its statute but the order of the Court has to be implemented whether there is any amendment or not.

8. When it is an admitted position that the present case is identical to the case of **Nawal Kishore Sharma** (supra), the Court deems it appropriate to dispose off the present case in the same terms.

9. Accordingly, the writ petition stands disposed off in terms of the order passed in the case of **Nawal Kishore Sharma** (supra), with the only modification that the direction to the respondents to re-fix full pension to the petitioner be completed by the respondents within four months from the date of receipt/production of a copy of this order before the respondent no. 4.

10. If the cost is not deposited and receipt filed, Registry shall place the matter before the Bench for appropriate orders.

11. The Court records its regret of having called the officer for no fault on his part. The personal appearance of the officer stands dispensed with.

12. After the order was dictated, learned counsel for the petitioner submitted that he had only given the date and had not submitted with regard to any number. The Court records that such



submission is totally false for the reason that the Court in its order dated 16.02.2018, had recorded that the stand of the State was that against the order passed in C.W.J.C. No. 176 of 2013 and analogous cases, the State had preferred Letters Patent Appeal, which was pending. The very next line states that the Court had been informed that the said Letters Patent Appeal has since stood dismissed on 26.07.2017. Thus, the Court could have believed the stand taken today by learned counsel for the petitioner that he had not stated with regard to the L.P.A. arising out of C.W.J.C. No. 176 of 2013 having been dismissed if any application had been filed by him for modification of the order dated 16.02.2018, where such fact was recorded at paragraph no. 3. The same not having been done, the Court has no reason today to believe such stand which has been taken only to save the petitioner from the cost imposed and is only by way of an afterthought, being a lame excuse, which the Court outrightly rejects.

(Ahsanuddin Amanullah, J.)

P. Kumar

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