

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12961 of 2017

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Gaya Prasad Yadav, Son of Late Bhogi Lal Yadav, Resident of Road No. 1
Extension, Rajbanshi Nagar, P.S.- Shastri Nagar, Town + District- Patna.

... .. Petitioner/s

Versus

1. Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga 846004 through its Registrar.
2. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga 846004.
3. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga 846004.
4. Prof. Arbind Kumar Jha, Son of not known to the petitioner, Principal, C.M. Science College, Darbhanga.
5. The Sub-Divisional Magistrate, Madhubani.
6. Sri Suman Kumar, M.L.C., Son of Late Shiv Shankar Mahaseth, Mahasethi Pokhar, Lahonagar, Vowara Ward No. 29, Madhubani, District- Madhubani 847212.
7. Prof. Ajit Kumar Singh, Dean, Commerce, L. N. Mithila University, Darbhanga.
8. The Professor-in-Charge, Dev Narayan Yadav College, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mritunjay Kumar
For the University	:	Mr. ajay Behari Sinha
		Mr. Md. Nadim Seraj
For Resp. No. 8	:	Mr. Abhinav Srivastava

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date : 04-01-2018

Heard Mr. Mritunjay Kumar, learned Counsel for the petitioner, Mr. Ajay Behari Sinha, learned Counsel appearing on behalf of the University, and Mr. Abhinav Srivastava, learned Counsel appearing on behalf of the respondent no. 8.



2. This application has been filed seeking quashing of the decision of the Syndicate of Lalit Narayan Mithila University, Darbhanga (hereinafter referred to as 'the University'), dated 11.04.2017, against Agenda Issue No. 14, whereby and whereunder on account of non-compliance of certain directions issued by this Court, the Governing Body of Dev Narayan Yadav College, Madhubani, has been dissolved and the Vice Chancellor of the University had been authorized to constitute *ad hoc* committee for the said College.

3. The College is affiliated with the University, which fact is not in dispute. The petitioner claims to be the donar member of the College and the Secretary of the Governing Body of the College.

4. The impugned decision of the Syndicate of the University has been assailed by the petitioner mainly on two grounds. Firstly, the Syndicate did not have any jurisdiction to dissolve the Governing Body and, secondly, in any circumstance, without giving the Governing Body a reasonable opportunity to show cause, no such decision could have been taken.

5. By the order, dated 07.12.2017, the University was asked to file counter affidavit, which has been filed today. The submissions, which were advanced when the matter was taken up



on 07.12.2017, has been reiterated on behalf of the petitioner. There is specific statement made in paragraph 26 of the writ application that at no point of time, any show cause notice was ever given either to the President and/or to the Secretary of the Governing Body of the College before taking the impugned decision.

6. Mr. Ajay Behari Sinha, learned Counsel appearing on behalf of the University and Mr. Abhinav Srivastava, learned Counsel appearing on behalf of respondent no. 8, have placed reliance on Article 28 of the Statutes, regarding Governing Body of the affiliated colleges, as assented by the Vice Chancellor, by letter no. MLU – 30/80-450 G.S. (1), dated 12.02.1982, to submit that the power of suspension and dissolution of the Governing Body is there under the said provision.

7. Article 28 of the Statutes reads thus:-

“Suspension of dissolution of Government Body or cancellation of grant-in-aid.

28. (1) The Syndicate may on its own motion or at the instance of the Vice-Chancellor (I) suspend the Governing Body for a specified period or (ii) dissolve a Governing Body and order its re-constitution, or (iii) cancel grant-in-aid to the college concerned, if in the opinion of the Syndicate any such action



is necessary to be taken for any one or more of the following reasons:-

(a) That the college has failed to comply with the directions issued by the Syndicate under the laws of the University within a specific time,

(b) That the college has failed to observe the provisions of the laws of the University,

(c) That the accounts of the grants made to the college have been improperly utilised, and

(d) That the affairs of the college in the opinion of the Syndicate have been grossly mismanaged:

Provided however that the before ordering suspension; or dissolution of the Governing Body or before passing any other order indicated above the Syndicate shall give a reasonable opportunity to the Governing Body to show cause against such action.

(2) The Syndicate shall, in case any order for suspension or dissolution of a Governing Body is passed, appoint an Ad-hoc committee to exercise the powers and perform the duties of the Governing Body until expiry of the period of suspension or the re-constitution of the Governing Body, as the case may be.”



8. On plain reading of Article 28 of the Statutes, I am of the view that learned Counsel for the respondents are correct in their submissions. The Syndicate has the power on its own motion or at the instance of the Vice Chancellor to suspend the Governing Body for specific period and to dissolve a Governing Body of an affiliated college and order its reconstitution. Article 28 of the Statutes, however, prescribes the reasons for which such action can be taken, as is evident from reading of the said provision. The sub-Article (1) of Article 28 of the Statutes, however, clearly prescribes that before ordering suspension or dissolution of a Governing Body, the Syndicate is required to give a reasonable opportunity to the Governing Body to show cause against such action.

9. There is no denial in the counter affidavit of this specific averment made in the writ application that no show cause notice was ever given to the petitioner or the Governing Body.

10. In my view, the impugned decision, on that ground alone, becomes unsustainable, being in breach of the requirements of Article 28 of the Statutes. The impugned decision, dated 11.04.2017, and any action consequential thereto, are hereby held to be illegal and are accordingly set aside.

11. It will be open to the Syndicate or the Vice Chancellor of the University to proceed against the Governing Body of the



College strictly in accordance with the provisions under Article 28
(1) of the Statutes.

12. This application is allowed with the observation, as
above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	05-01-2018
Transmission Date	N/A

