

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5843 of 2016

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Temple Of Haniman Homeopathic Medical College & Hospital, Munger through
Ranjan Kumar S/o Jaldhar Yadav R/o Mohalla- Sandajpur, PS Kasimbazar,
PO+District Munger, President Governing Body, Temple of Haniman Homeopathic
Medical College and Hospital Munger.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Govt. of Bihar,.
2. The Vice Chancellor , Babusaheb Bhimrao Ambedkar Bihar University,
Muzaffarpur.
3. The Registrar, Babusaheb Bhimrao Ambedkar Bihar University, Muzaffarpur.
4. The Governing Body Formed by the respondent No. 2 video Order date
30.05.2014 through Dr. D.N. Poddar, Incharge Principal of T.H.H. Medical
College & Hospital Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Sinha, Advocate

For B.R.A. Bihar University : Mr. Arabind Nath Pandey, Advocate

For the State : Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 19-01-2018



Grievance of the petitioner in the writ petition pertaining to constitutional validity of the 2nd Proviso to Statute 32 for constitution of the Governing Body of an Institute the same is claimed to be 'ultra vires' only because the sponsor is granted liberty to recommend the Governing Body. It is stated that this gives unfettered power to the sponsor who may not be a genuine person to recommend a Governing Body and, therefore, the right of the Minority Institute is affected. That apart it is stated that the senate is also given power of such interference. However, on a perusal of the Proviso and from a reading of the counter affidavit filed by the State Government, we find that the sponsor is only given the power to indicate the constitution of the Managing Committee, but the entire responsibility of affirming the said recommendation is with the Syndicate and if the Syndicate is satisfied that the bona fide of the sponsoring authority is doubtful, it can always reject the recommendation made.

That being the position, we see nothing ultra vires in the Statute requiring interference the Syndicate having been vested with the power to enquire about the bona fide of the sponsoring authority can always refuse approval of a Governing Body, in case it feels that the recommendation made by the sponsoring authority is not bona fide.

That being so, an in-built check and balance system is provided in the Statute itself and, therefore, we see no reason to make



any indulgence into the matter. That apart in case the syndicate acts in an arbitrary manner its decision can always be subject to right of challenge before the Chancellor through judicial review.

The application is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25-01-2018
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