

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1983 of 2015
IN
Civil Writ Jurisdiction Case No. 960 of 2012**

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Shashi Shekhar, Head of Department, Department of Maths, Awadh Biari Singh College, Lalganj, Vaishali and son of Late Hardwar Singh, Resident of Mohalla-Pandriwa, Masjid Chowk, P.S. + P.S.- Hajipur (Town), District- Vaishali

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. Principal Secretary, Human Resources Development Department, Bihar, Patna
3. Secretary, Human Resources Development Department, Bihar, Patna
4. Director, Higher Education, Human Resources Development Department, Bihar, Patna
5. Vice Chancellor, B.R.A. Bihar University, Muzaffarpur
6. The Registrar, B.R.A. Bihar University, Muzaffarpur
7. Mukteshwar Narayan Singh, Principal, Awadh Biari Singh College, Lalganj, Vaishali
8. Vijendra Prasad Singh, Secretary, Governing Body, Awadh Biari Singh College, Lalganj, Vaishali
9. Governing Body, through Secretary, Awadh Biari Singh College, Lalganj, Vaishali

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nitesh Kumar, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRFASAD)

Date: 09-04-2018

Challenging the judgment dated 7.9.2015 passed by the learned Writ Court in C.W.J.C. No.960 of 2012, the writ petitioner-appellant is in appeal before use. By the impugned judgment, the learned Writ Court has while allowing the University authorities to complete the enquiry and to give appropriate direction to the College



in question in the matter of disbursement of financial aid, has further directed that if the Managing Committee of the College in question does not adhere with such direction a recommendation shall also be made to the State Government to stop such financial aid. The learned Writ Court further added that in alternative the petitioner may move the Civil Court of competent jurisdiction for appropriate declaration. The Court was of the view that the disputed finding of facts may be adjudicated only by taking evidences both oral and documentary.

It appears that the writ application was preferred by the petitioner seeking inter alia a direction upon the respondents-authorities to distribute financial aid/allocated funds for financial year 2011-12 provided by the Human Resources Development Department, Bihar to Bhim Rao Ambedkar Bihar University, Muzaffarpur (hereinafter referred to as the 'University'). The petitioner was looking for a direction that the funds should be distributed only amongst sanctioned and recommended working teaching and non-teaching staff of Awadh Bihari Singh College, Lalganj, Vaishali (hereinafter referred to as the 'College'). The allegation in the writ application was that till date the funds are being wrongly distributed amongst non-sanctioned, non-recommended and non-working and fake staff of the College in violation of the



notification of the State Government.

The petitioner also sought for a direction upon the respondents-authorities to recover the amount from ineligible and fake staffs of College who have been earlier paid by the governing body of the College from the financial aid/allocated funds given by the Human Resources Development Department, Bihar to the College for financial year 2009-10.

The petitioner brought on record certain documents upon obtaining the same under Right to Information Act.

Learned counsel for the petitioner-appellant submits that the direction of the learned Writ Court that the petitioner may approach the Civil Court is not a just and proper direction in the facts and circumstances of the case. It is submitted that in the nature of the materials available on the record, the Writ Court had sufficient reason to exercise its extraordinary writ jurisdiction and appropriate directions should have been issued to the University in terms of the prayers made in the writ application.

A counter affidavit has been filed on behalf of the University (respondent no.6) as well as the governing body of the College (respondent no.9). It is the stand of the respondent no.6 that the Vice Chancellor of the University has constituted a three man



Committee headed by the Proctor to consider the issue of distribution of financial aid/grant as per the directives of the State Government amongst the working teachers and non-teaching employees working on sanctioned and recommended posts of A.V.S. College, Lalganj, Vaishali for the financial year 2009-10 and 2011-12 vide Annexure-R6/A to the counter affidavit.

It is also pointed out that a Complaint Case No.478 of 2011 (Baleshwar Singh vrs. Mukteshwar Singh and others) had been filed in the court of Chief Judicial Magistrate, Hajipur alleging irregularity and fraud committed by the College in disbursement of grants. The said complaint case has finally been disposed of vide order dated 1.6.2016 and the accused persons have since been acquitted by holding that the prosecution has failed to prove the charges. The Three Man Committee has submitted a report dated 24.1.2015 stating that there is no deviation in disbursement of grants.

The respondent no.9 has also opposed the Letters Patent Appeal submitting that the State Government being fully satisfied with the declaration and audit report regarding utilization of fund has released the amount of financial year 2011-12. Further release of funds is an evidence of fact that there has been proper disbursement of funds to the teaching and non-teaching employees of the College.



Having heard learned counsel for the parties and on perusal of the record, we do not find any reason to interfere with the judgment of the learned Writ Court, however, we are willing to modify the last part of the judgment by which the learned Writ Court has observed that the petitioner may approach the Civil Court. The said part of the order is modified to the extent that in case the petitioner-appellant is not satisfied with the enquiry report submitted by the Three Man Committee constituted by the University, he may pursue his remedy for ventilation of his grievance/grievances with respect to payments to fake staffs or wrong distribution of funds before an appropriate forum and in accordance with law.

The Letters Patent Appeal is disposed of accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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