

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16835 of 2014

1. Lal Narayan Raut Son of Late Jagdish Narayan Raut Presently working as Storekeeper (Zoology) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
2. Umesh Lal Chaudhary Son of Late Bhola Chaudhary Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
3. Vijay Mahaseth Son of Late Birendra Narayan Mahaseth Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
4. Surendra Mandal Son of Buchkun Mandal Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
5. Dilip Kumar Singh Son of Shri Naresh Pd. Singh Presently working as Storekeeper (Botany) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
6. Asha Devi Daughter of Late Maujelal Yadav Presently working as Storekeeper (Psychology) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
7. Gajendra Singh Son of Late Pano Singh Presently working as Storekeeper (Chemistry) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
8. Bibhuti Nath Jha Son of Amarendra Jha Presently working as Storekeeper (Geology) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
9. Satya Narayan Pradhan Son of Late Laxmi Pradhan Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
10. Suresh Kumar Chaudhary Son of Sri Mahendra Chaudhary Presently working as Storekeeper in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
11. Nagendra Prasad Nirala Son of Shri Yogendra Prasad Presently working as Typist in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
12. Bashudeo Panjiyar Son of Late Satyanarayan Panjiyar Presently working as Sr. Typist in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).



13. Balram Mandal Son of Late Bagish Mandal Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
14. Shashi Bhushan Roy Son of Late Ram Narayan Ray Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
15. Jai Rudra Kamti Son of Late Jailal Kamti Presently working as Lab-in-Charge (Physics) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
16. Deo Nath Yadav Son of Late Sarabjit Yadav Presently working as Tabla Player in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
17. Sulekha Kumari Daughter of Jai Narayan Kara Presently working as Lab-in-Charge (Psychology) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
18. Shiv Tarni Devi Daughter of Late Sukhdev Yadav Presently working as Peon in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
19. Shatrughana Mahato Son of Late Mahavir Mahto Presently working as Lab Boy in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
20. Raj Kumar Choudhary Son of Late Birbal Choudhary Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
21. Bharat Lal Chaudhary Son of Shri Rooplal Choudhary Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
22. Usha Kumari Daughter of Biltu Gara Presently working as Lab-in-Charge (Zoology) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
23. Arun Kumar Pradhan Son of Late Ramji Pradhan Presently working as Lab-in-Charge (Botany) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
24. Shambhu Kr. Chaudhary Son of Late Dhruv narayan Chaudhary Presently working as Lab-in-Charge (Zoology) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
25. Binay Bhushan Panjiyar, Son of Shri Shiv Narayan Panjiyar, Presently working as Lab-in-Charge (Chemistry) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
26. Binay Kumar Jha, Son of Late Laxmi Narayan Jha, Presently working as Lab-in-Charge (Chemistry) in J.M.D.P.L. Mahila



- College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
27. Bindeshwar Nayak, Son of Late Hiralal Nayak, Presently working as Lab-in-Charge (Physics) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 28. Pramod Kr. Agrawal. Son of Late Prahalad Pd. Agrawal, Presently working as Lab-in-Charge in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 29. Dilip Kumar Mahto, Son of Late Dev Narayan Mahto, Presently working as Lab-in-Charge in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 30. Ram Chandra Sinha, Son of Late Ramphal Sinha, Presently working as Lab-in-Charge (Physics) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 31. Ram Deo Yadav, Son of Shri Raslal Yadav, Presently working as Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 32. Renu Devi, Daughter of Jageshwar Mishra, Presently working as Peon in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 33. Pramod Kr. Yadav, Son of Late Hiralal Yadav, Presently working as Peon in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 34. Surendra Prasad Thakur, Son of Late Jagdeo Thakur, Retired Lab-in-Charge (Physics) in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).
 35. Anirudh Rai, Son of Late Jag Narayan Rai, Retired Clerk in J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Patna Secretariat, Patna
2. Principal Secretary, Education Department, Patna Secretariat, Patna
3. Director, Higher Education, Education Department, Patna Secretariat, Patna
4. Vice Chancellor, Lalit Narayan Mithila University, Darbhanga
5. Lalit Narayan Mithila University, Darbhanga through its Registrar.
6. Registrar, Lalit Narayan Mithila University, Darbhanga.
7. Principal, J.M.D.P.L. Mahila College, Madhubani under the Jurisdiction of L.N. Mithila University, Darbhanga (Bihar).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Pd. Singh, Advocate
For the Respondent/s	:	Mr. Sushil Kr. Singh, AC to AAG-10



For the University : Mr. Binita Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 18-09-2018

Heard Mr. Rajendra Prasad Singh, learned senior counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State as well as University.

Thirty five petitioners have approached this Court in the present application. They have filed present writ application for grant of payment of salary as well as arrears of salary. Their plea is that after the judgment of the Apex Court in the case of Mahasangh reported in (2005) 9 SCC 129 the matter was examined by the University for absorption of the teaching or non-teaching employee in the process of taking final decision under Section 4(1) (14) of the Bihar State University Act, in connection with four phase constituent college. Deliberation was made and with the consent of the Director Higher Education as appearing from the letter No. 522 dated 3rd April, 2006 the University took a conscious decision in compliance of the bipartite agreement dated 12.10.2004 and in compliance of the judgment of the Apex Court in Mahasangh case (supra) in the meeting of syndicate held on 23.02.2006. In the light of the direction contained in Annexure-8 dated 3rd of April, 2006 decision was taken to absorb and



regularize the services of the non-teaching employee mentioned in Annexure-9.

Learned senior counsel for the petitioner submits that once respondents have taken the decision to absorb the services of the petitioners in the light of the judgment of Apex Court in the case of Mahasangh (supra) and the direction of the State Government contained in Annexure-8 memo No. 522 dated 3rd April, 2006. The University after taking decision for absorption become functus officio; so far as power exercised under Section 4 (1) (14) of the University Act is concerned. Mr. Singh submitted that under the University Act there is no provision for review of the order and conscious decision taken in the light of the judgment of the Apex Court and in the light of the State Government direction contained in Annexure-8 dated 3rd of April, 2006.

Mr. Rajendra Prasad Singh placed reliance on the decision of this Court in CWJC No. 11151 of 2018 dated 18.07.2018 where pursuant to the tripartite agreement between Association, State Government and the University, the University took decision to absorb the services of the petitioners in other college. Referring to the judgments of the Apex Court in the case of State of Bihar & Anr. Vs. Sunny Prakash & ors. Reported in (2013) 3 SCC 559, this Court has allowed the aforesaid writ



application CWJC No. 11151 of 2018 and directed the respondent to restore the petitioners the status of absorbed employee as they were absorbed in the college pursuant to the tripartite agreement.

Considering the aforesaid, the present application which is on similar footing deserve similar treatment. Accordingly respondents are directed to ensure payment of the petitioner, considering the fact that petitioner were absorbed in terms of Annexure-9. Consequential benefits must reached the petitioners within a maximum period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

banti/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2018
Transmission Date	

