

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20997 of 2012**

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1. Rajendra Prasad Son Of Late Baso Mahto Resident Of Village & P.O. Ajaypur, P.S. Noor Sarai, District- Nalanda
  2. Vijay Kumar Son Of Ram Chandra Mahto Resident Of Village & P.O. Muraura, P.S. Bihar Sharif, District Nalanda
  3. Ajay Kumar Son Of Saudi Mahto Resident Of Village Daruara, P.S. Noor Sarai, District- Nalanda
  4. Awdhesh Prasad Son Of Sri Shiv Nandan Prasad Resident Of Village- Anatpur, P.O. Madhopur, P.S. Chandi, District- Nalanda
  5. Rajeshwar Prasad Son Of Late Bhattu Ram Resident Of Village- Salepur, P.O. Naili, P.S. Chandi, District- Nalanda
  6. Kapil Paswan Son Of Late Prasadi Paswan Resident Of Village Sahpur, P.O. Bhaganbigha, District- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Government Of Bihar, Patna
3. The Magadh University, Bodh Gaya, District- Gaya Through Its Registrar
4. The Vice-Chancellor, Magadh University, Bodh Gaya, District- Gaya
5. The Registrar, Magadh University, Bodh Gaya, District- Gaya
6. The Finance Officer, Magadh University, Bodh Gaya, District- Gaya
7. The Procter, Magadh University, Bodh Gaya, District- Gaya
8. The Governing Body, Allama Iqbal College, Bihar Sharif, District- Nalanda, Through Its Secretary
9. The Secretary, Allama Iqbal College, Bihar Sharif, District- Nalanda
10. The Principal Allama Iqbal College, Bihar Sharif, District- Nalanda

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar Jha  
For the Respondent/s : Mr. Yogendra Pd. Sinha

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL JUDGMENT**

**Date : 27-11-2018**

Heard learned counsel for the petitioner and the  
counsel appearing on behalf of the State.

2. Petitioner has filed the present writ application  
after permission to withdraw the SLP.

3. The relevant part of the order of the Apex Court in



Special Leave to Appeal (Civil) CC 2384/2012 dated  
10.02.2012 is quoted below:-

**“After making some argument, learned counsel for the petitioners made a request that his clients may be permitted to withdraw the special leave petition with liberty to avail other remedies.**

**The request of the learned counsel is accepted and the special leave petition is dismissed as withdrawn in terms of the prayer made. However, it is made clear that liberty given to the petitioners to avail other remedies shall not be construed as a mandate of this Court to the High Court and if any such application is filed, the High Court shall consider and decide the same on its own merits.”**

4. From the order of the Apex Court, it would manifest that the special leave petition was dismissed as withdrawn on the prayer made by the petitioners. The Apex Court made it clear that liberty given to the petitioners to avail other remedies shall not be construed as a mandate of this Court to the High Court and if any such application is filed, the High Court shall consider and decide the same on its own merit.

5. Now the petitioners have placed reliance on the order dated 21.2.2006 in C.W.J.C. No. 6053 of 2002. The order in C.W.J.C. No. 6053 of 2002 reads as follows:-

**“In view of the report of the Vigilance**



**Department as submitted by learned counsel for the petitioner and perused the same in the court .**

**Learned counsel for the petitioners seeks permission to withdraw the present application.**

**Accordingly the writ application is dismissed as withdrawn.**

**Withdrawal of the writ application will not stand in the way of the petitioners in raising the grievance before the appropriate authority i.e. Hon'ble Chancellor."**

6. From the submission made on behalf of the petitioners it would be evident that petitioners is only interested in seeking permission to withdraw the application to agitate the matter here and there and everywhere.

7. The Court on perusal of the material available on record, does not find any merit in the writ application.

8. Adverting to the prayer made in the instant writ application that no relief as prayed in the present writ application can be granted in a proceeding under Article 226. The petitioners are seeking mandamus for payment of arrears of salary and current salary. His prayer is against the Managing Committee of the Allama Iqbal College, Nalanda, Bihar Sharif.

9. Law in this regard is well settled that Apex Court has already held out that such dispute against the Managing Committee cannot be adjudicated in the present proceeding.



However, appropriate remedy is available to the petitioners under common law i.e. by way of raising their grievance before the competent Civil Court.

10. Reference in this connection is made to the judgment of the Apex Court in the case of **Sirsi Municipality vs. Cecelia Kom Francis Tellis: AIR 1973 SC 855** reiterated in **Vaish Degree College Vs. Lakshmi Narain: AIR 1976 SC 888.**

11. Considering the totality of the facts situation, the Court is not inclined to grant any indulgence and as such the writ application is dismissed as devoid of merit. However, dismissal will not come in the way of the petitioners availing common law remedy before the appropriate civil court.

**(Anil Kumar Upadhyay, J)**

Ravi/-

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| AFR/NAFR          | NAFR       |
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