

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19417 of 2013

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Usha Mowar S/O Smp Singh Resident Of Mohalla- Garhper, P.S- Biharsharif,
District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar Through Principal Sectretary Department Of Higher Education (Hrd) Government Of Bihar, Patna
2. The Vice Chancellor Of Magadh University Bodh Gaya.
3. The Registrar Magadh University, Bodh Gaya.
4. The Principal Nalanda College Biharsharif, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Khursid Alam, Advocate
For the M.U.	:	Mr. Ritesh Kumar, G.A.-7 Advocate
For the Respondent/s	:	Mr. Gyan Prakash Ojha, Advcoate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 29-10-2018 Heard learned counsel for the petitioner and counsel
appearing on behalf of the State as well as University.

Petitioner is aggrieved by the order contained in Annexure-2 series. Earlier, the petitioner has approached this Court in CWJC No. 5585 of 1996. The Writ Court quashed the order dated 29th March, 1996 and directed the respondent to consider the case of the petitioner for regularization and payment of salary accordingly. After the order in CWJC No. 5585 of 1996 when no decision taken on the part of the University, the petitioner has to file MJC No. 4792 of 2012. During the pendency of the aforesaid MJC 4792 of 2012 the respondent have passed order dated 18th November 2012 and in



that view of the matter the contempt petition was disposed of with liberty to the petitioner to challenge the order dated 18.11.2012 that is why petitioner has filed present writ petition challenging the order dated 18.11.2012. On behalf of the petitioner submission has been advanced that the similarly circumstanced other have been considered for absorption whereas petitioner was ignored. He referred to the case of Dr. Om Prakash Singh, Dr. Renu Mawar, Dr. Krishna Kumar Jaitly, Smt. Shila Rani sinha and Smt. Kamla Kumari who were considered by the University and their services have been regularized.

Learned counsel submits that adopting different yardstick is impermissible and violative of Article 14 and 16 of the Constitution of India.

In the counter affidavit filed on behalf of the University. The respondents have tried to justify the case in paragraph-12 of the counter affidavit which reads as follows:

“That with regard to the averments made in paragraph No.10 of the writ petition, it is respectively stated and submitted that the case of the petitioner stands on different footing and further the



petitioners case for absorption has been recommended by a duly constituted post sanction, absorption and confirmation committee of the university in its meeting and was sent to the Governor's Secretariat for approval. It is stated that and submitted that the approval of the Governor's Secretariat is still awaited. It is further stated and submitted that the State Government is the funding agency and the fund released by the State Government is utilized as per the direction of the State Government and the State government release grant/fund only against the sanction post.”

From perusal of paragraph-12 of the counter affidavit, it appears that only for the purpose of distinction, distinction has been drawn. However, paragraph-12 admits the fact that the case of the petitioner for absorption has been recommended by the duly constituted absorption and confirmation committee of the University and the matter is pending at the level of Governor Secretariat for approval.

Considering the fact that the statutory committee of



the University has already recommended the case of the petitioner favourably and the matter is pending at the level of Chancellor Secretariat, the writ petition is disposed of with a direction to the office of the Chancellor to please the case of the petitioner put before the Hon'ble Chancellor so that the claim of the petitioner for absorption is appropriately decided by the Hon'ble Chancellor at the earliest considering the fact that similarly circumstanced other have been regularized and the matter of the petitioner is pending for the last three decades. The Court hope and trust that the appropriate decision may be taken by the Hon'ble Chancellor at the earliest so the controversy be settled finally.

The Court will appreciate if the office of the Chancellor will do the needful for expeditious disposed of the case of the petitioner.

With the aforesaid the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

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