

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1844 of 2016

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1. Binod Chandra son of Sri Laxman Singh, resident of Mohalla- Jay Prakash Nagar, Police Station-Jakkanpur, District-Patna, Bihar.
 2. Arun Kumar Srivastava son of Sri Ramakant Srivastava, resident of Slum- 188 Lohia Nagar, Police Station-Kankarbage, District-Patna, Bihar.
 3. Jitendra Kumar son of Sri Mahendra Paity Nagvansi, resident of Village- Vishunpur, Sri Ram, Police Station-Sakra, Post Office-Ashanand, Titra, District-Muzaffarpur, Bihar.
 4. Ranjeet Ram son of Late Bindeshwar Ram, resident of Village-Narayanpur, Police Station-Piprahi District- Shivhar, Bihar.
 5. Satyendra Kumar Gupta son of Late Jag Narain Sah, resident of Village-Ganj Bharasara, Police Station-Dinara, District-Rohtas, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through Mr. G.S. Gangwar, Principal Secretary Education Department, Government of Bihar, Patna.
2. Dr. Ishtiaq Ahmed, Vice Chancellor, Magdh University, Bodh Gaya, District-Gaya.
3. Dr. Sita Ram Singh, Registrar, Magadh University, Bodh Gaya, District-Gaya.
4. Dr. Baban Yadav, Principal, College of Commerce, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Singh, Adv.
For the M.U : Mr. Ritesh Kumar, Adv.
For the Respondent/s : Mr. Chittranjan Sinha, Sr. Adv, PAAG-2, with
: Ms. Ratna Kumari, Ac to PAAG-2

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

11 18-08-2018 Heard learned counsel for the petitioners, learned counsel representing the University and learned counsel representing the State.

The petitioners are alleging willful disobedience of the order dated 03.12.2010 passed by the learned writ court in C.W.J.C. No.9879 of 2002. The relevant part of the order of which contempt has been alleged reads as under:-

“I, accordingly, quash the order dated 24.7.2002, contained in Annexure-19 by which the



petitioners' services have been terminated and direct that the Vice-chancellor of the University may call for the records of appointment in pursuance of the advertisement issued on 5.12.1991. The Vice-chancellor may examine the records himself or may constitute a committee for examining the records and confirming the report as contained in Annexure-10 and thereafter pass appropriate orders.

If the Vice-chancellor is of the opinion that the appointments have not been made in a regular manner, then the Vice-Chancellor should resort to the direction given by this Court in CWJC No. 9256 of 1995, contained in Annexure-15 which is, that the posts should be filled up on a regular basis after due advertisement, interview, selection and preparation of a merit list, within a period of six months from the date of receipt/production of a copy of this order. The said direction is modified to the extent that the posts should be filled up in a regular manner within a period of six months after the enquiry is completed by the Vice-chancellor in context with Annexure-10. I also direct that if the posts are to be filled up regularly then the case of the petitioners ought to be considered, in view of the fact that the petitioners have been working regularly from 1992 to 2002, without any complaint or adverse remarks in their career. If in case, it is found that the petitioners in the writ application have crossed the age bar for being appointed on the post, the age ought to be condoned. The petitioners would also be given seven marks/points because of the fact that they have already worked for ten years on the various posts on which they were appointed.



This writ application is, thus, allowed.”

Learned counsel for the petitioners submits that in the facts of the present case, he has to confine his prayer for initiation of contempt proceeding against the opposite parties limited to the first part of the order wherein the Vice-chancellor was required to pass an appropriate order after examining the records either himself or through a duly constituted committee.

The grievance of the petitioners is that while pursuant to the order passed by this Court, the Vice-chancellor constituted a committee to examine the records and the committee having examined the records confirmed the report as contained in Annexure-10, the matter was placed before the Syndicate on the direction of the the then Vice-chancellor and the Syndicate had passed resolution sending the request to the State Government to consider budgetary allocations for the purpose of regularization of the petitioners, now the Vice-chancellor has passed an order on 04.02.2018 which amounts to negating the claim of the petitioners for regularization and in fact, by such action the Vice-chancellor has now passed a conflicting order if compared with the decision of the Syndicate earlier taken at the instance of the Vice-chancellor.

On the other hand, learned counsel representing the University submits that the order of this Court has already been



complied with inasmuch as, it would appear from the admitted facts that the Vice-chancellor had constituted a committee and the said committee had also examined the records and, thereupon, the Vice-chancellor had directed to place the matter before the Syndicate which was, accordingly, done. It is submitted that what was resolved by the Syndicate and then was sent to the State Government is not a matter required to be examined by this Court. It is further submitted that the Vice-chancellor has taken a decision and passed an order dated 04.02.2018 which is in the nature of a speaking order and contains reasons which may again be not looked into and examined by this Court sitting in its contempt jurisdiction.

Learned counsel submits that so far as the order of the learned writ Court is concerned, it was only limited to examining the record by the committee or by the Vice-chancellor himself and there if the records confirmed the report as contained Annexure-10 then an appropriate order was to be passed. Now that an order has been passed by the Vice-chancellor, the correctness of the said order may be challenged only in a duly constituted proceeding.

Learned counsel representing the State submits that in the earlier writ application State was not a party and, therefore, the order nowhere talks of involvement of the State in the matter of passing of the order by the Vice-chancellor. It is submitted that



even if the Syndicate had passed resolution for regularization of the petitioners and had sought for budgetary allocation for the same, at least the order passed by learned writ court nowhere directs the State Government to entertain such claim and to take decision in respect thereof.

Having heard learned counsel for the petitioners, learned counsel representing the University and learned counsel representing the State, this Court is of the considered opinion that this contempt application cannot proceed in the circumstances brought before this Court. It is apparent from perusal of the records that pursuant to the order passed by this Court, the Vice-chancellor had constituted a committee and then the said committee had examined the records which were placed before the Vice-chancellor. The Vice-chancellor had referred the matter to the Syndicate and the Syndicate passed a resolution in the nature of a step towards regularization of the petitioners, but because the same required budgetary allocation sent to the State Government. The State Government did not entertain the resolution of the Syndicate and no decision was taken by the State Government.

In the opinion of this Court, the learned writ Court had not said anything about the obligation of the State with regard to budgetary allocation and, therefore, if the State was sitting over the matter and had not taken any decision with respect thereof



that alone would not constitute the contempt of this Court because admittedly the State Government was not a party to the writ application.

Now, it appears that the Vice-chancellor of the University has passed an order on 04.02.2018. This Court has gone through the same and finds several reasons mentioned therein for taking such a decision. This Court would agree with the submissions made on behalf of the University that at this stage sitting in its contempt jurisdiction, once this Court finds that there are reasons in support of the order, this Court would not go into the issues as to whether the order is just and proper, legal or valid or not.

In the opinion of this Court, no case for contempt is made out. It is dismissed accordingly. The petitioners will have liberty to assail the order passed by Vice-chancellor in accordance with law.

(Rajeev Ranjan Prasad, J)

Arvind/R.R.Ojha/Ved

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