

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.360 of 2008

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Smt.Chinta Devi, wife of Hare Ram, Resident of Mohalla- Purani Hospital,
Sabji Bazar, Katarapar, Police Station- Laheri, District- Nalanda.

... .. Petitioner/s

Versus

1. Vice Chancellor, Magadh University, Bodh Gaya, Police Station- Magadh University, District- Gaya.
- 2.The Registrar, magadh University, Bodh Gaya, Police Station- Magadh University, District- Gaya.
- 3.The Principal, Nalanda Mahila College, Bihar Sharif, Police Station- Bihar Sharif, District- Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar Singh
For the Respondent/s : Mr. Yugal Kishoreyugal Kishore

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 19-06-2018 Heard learned counsels for the parties.

Since 2008 matters are pending yet the respondents have not chosen to file counter affidavit, under the aforesaid circumstances, the court is constrained to dispose of the writ petition with direction to the University to take final decision on the claim of the petitioner for absorption/regularization.

It is true that after the judgment of the Apex Court in the case of **Secretary, State of Karnataka vs. Uma Devi**, no court can issue any positive direction for regularization as regularization is not a mode of appointment. However, it is a peculiar case where from the pleadings, it appears that petitioner has been appointed by the erstwhile Managing Committee of the



college prior to the college was taken over in third phase in the year 1980.

Under the aforesaid circumstances, when there is no decision either on the claim of regularization or absorption of the petitioner in terms of Section 4(1)/14 of the Bihar State University Act, the University is required to take decision one way or the other. Accordingly, the writ petition is disposed of with direction to the respondent-University to take final decision and if it is found that the petitioner was validly appointed by the Managing Committee and was entitled to absorption in terms of Section 4(1)/14 of the Bihar State University Act, final decision may be taken by the respondent-University on the claim of the petitioner for absorption in terms of statutory provision as indicated hereinabove, otherwise the respondent-University is required to take decision within the scheme of absorption carved out by the Apex Court in the case of Secretary, State of Karnataka (Supra) as from the pleadings, it appears that petitioner has completed more than 10 years of service on the date of the judgment rendered by the Apex Court in the case of Secretary, State of Karnataka(Supra).

Since the respondents have not filed any counter affidavit, the court is left with no option but to direct the



respondents to take final decision on verification of the record pertaining to the claim of the petitioner by a reasoned speaking order within a maximum period of sixty days.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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