

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1813 of 2015

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Sweta Prasad D/O Late Bishnudeo Prasad, Resident of Mohalla-Mithapur 'B' Area,
P.S-Jakkanpur, District-Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Department, New Secretariat Building Bihar, Patna.
2. The Vice- Chancellor, Magadh University, Bodhgaya, Gaya.
3. The Registrar, Magadh University, Bodhgaya, Gaya.
4. The Principal J.D. Women's College, Bailey Road, Patna.
5. Vandana Sinha S/O Late Bishnudeo Prasad Resident of Mohalla-Mithapur 'B' area, P.S-Jakkanpur, District-Patna, at present resident of House of Usha Jain, Bihari Sao Compound, Karbigahiya, P.S-Jakkanpur, District-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.
For the State	:	Mr. Ravindra Kumar, Advocate
For the Magadh University	:	Mr. Ritesh Kumar, Advocate
For the Private Respondent/s	:	Mr. Amaresh Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 20-08-2018

Nobody appears on behalf of the petitioner.

2. Learned counsel for the State; Magadh University and respondent no. 5 have been heard.

3. The petitioner has moved the Court for the following reliefs:

“I. For issuance of writ in the nature of mandamus directing the respondent authorities specially respondent nos. 2 to 4 to considered the representation dated 11.11.2009 of the petitioner, filed before the respondent on. 4 and to make the appointment of the petitioner on compassionate ground, as the father of petitioner namely Bishnudeo Prasad was working as the senior lecturer in J.D. Women’s College and died in harness on 26.10.2009



at Tara Hospital, Patna and there is no other earning member in the family of the petitioner.

II. For issuance of writ in the nature of mandamus commanding upon the respondent authority specially respondent no. 4, to disposed of the representation dated 11.11.2009 of the petitioner to consider for the appointment of the petitioner on compassionate ground after the death of her father and the representation of the petitioner has been kept pending by the respondent authorities for a period of more than 4 years.

III. For any other relief or reliefs, the petitioner is found entitled in the facts and circumstances of the case.”

4. The father of the petitioner late Bishnudeo Prasad died in harness while working on the post of Lecturer, Department of Botany, J. D. Women's College, Patna. The dispute is with regard to compassionate appointment which the petitioner claims being the daughter from the first wife which is contested by the respondent no. 5, who claims to be the only wife of the deceased employee. It is also an admitted position that the petitioner's mother was the first wife of the employee, who died on 26.10.2009. There was a decree in favour of the father of the petitioner of divorce from her mother. The respondent no. 5 married the employee on 02.09.2002. Thereafter, efforts have been made by the petitioner's mother for challenging the *ex parte* decree of divorce dated 17.10.2001, but till date, no order has been passed on the same.

5. In view of the fact that the marriage of the respondent



no. 5, with the deceased employee was almost after 11 months of the decree of divorce from the mother of the petitioner, the marriage of respondent no. 5 with the employee is a valid transaction in the eyes of law. Even till date, the decree not being interfered with, the respondent no. 5 remains to be the only wife of the deceased employee.

6. Having regard to the fact that the right for compassionate appointment is conferred first on the spouse and admittedly, the respondent no. 5, being the legally wedded wife, the Court has no hesitation to hold that, in law, she would be entitled to compassionate appointment.

7. In view thereof, the writ petition stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

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