

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5433 of 2011

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1. Ram Prakash Singh, Son of Late Bachhilal Singh, resident of village Ekahari, Police Station Ladaniya, District Madhubani.
 2. Ram Briksha Sahu, son of Hirday Sahu, resident of village Chhaurhi, Police Station Babu Barhi, District Madhubani.
 3. Satya Narayan Singh, Son of Late Bilat Mahto, resident of village navtoli, Police Station Babu Barhi, District Madhubani.
 4. Devendra Prasad Singh, son of Late Bachhilal Singh, resident of village Ekahari, Police Station Ladaniya, District Madhubani.
 5. Arjun Prasad Suman, son of Yogendra Rout, resident of vilage Bhutaha, Police Station Ladaniya, District Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
3. Special Secretary, Human Resource Development Department, Govt. of Bihar, Patna.
4. Director, Higher Education, Human Resource Development Department, Govt. of Bihar, Patna.
5. Governing Body, Shukhdeo Mahto Janta College, Khajedih, Police Station Ladaniya, District Madhubani, through its Secretary.
6. Secretary, of the Governing Body, Shukhdeo Mahto Janta College, Khajedih, Police Station Ladaniya, District Madhubani.
7. Principal, Shukdeo Mahto, Janta College, Khajedih, Police Station Ladaniya, District Madhubani.

8.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Uday Bhanu Roy, Advocate Mr. Ambrish Kumar Jha, Advocate
For Respondent No.7	:	Mr. Balshwar Kamat, Advocate
For the Respondent/s	:	Mr. J.S. Arora SC-6

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

7 19-06-2018 Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State.

This case has a chequered history. On recommendation of the Lalit Narayan Mithila University, Darbhanga, the State Government sanctioned post without



finalizing the order vide letter No. 1189 dated 2nd July, 1994. In the said letter, there is no discussion what was the infrastructure and work load of the college, which led to creation of the such post. However, once the State Government has taken a decision to create ten posts of peon vide letter No. 1189 dated 2nd July, 1994, the Court does not find any justification to reduce the sanctioned strength. It appears that the University issued letter addressed to the Director, Higher Education, Bihar, Patna vide letter No. 3817 dated 3.11.2010. In the said letter the University recommended for creation of additional post on the basis of staffing pattern and in response thereto the respondent Spl. Secretary Human Resources Development Department, State of Bihar has issued letter as contained in memo dated 24.08.2010, whereby the State Government communicated the University to reduce the post of peon from 10 to 5 as a condition for grant of affiliation and as a consequence thereof the service of the petitioner was dispensed with vide impugned order dated 24.08.2010.

Undisputably, on the date when the petitioner was appointed as a peon ten posts of peon was sanctioned by the State Government and without giving any reasonable opportunity to the institution as well as the employee appointed



on such post the State directed the University to reduce the post of peon from 10 to 5. As a condition for grant of permanent affiliation is absolutely illegal and arbitrary exercise of power. This Court does not go into the matter particularly when the State Government on the recommendation of the University has approved 10 post of peon in 1994. There is no material in the letter contained in memo No. 2651 dated 24.08.2010 as justification to reduce the number of post of peon from 10 to 5.

The Court failed to understand the justification for such action, in reply to the letter of the University dated 30th July, 2010, the Court is constrained to quash the order contained in Annexure-5 dated 24th of August, 2010, consequently the follow up order dated 01.02.2011 dispensing with the service of the petitioner cannot sustain and the same is also set aside.

With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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