

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16902 of 2010

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Dr. Gopal Sharan Sharma S/O Late Kedar Singh R/O Vill.- Thakuri, P.O.-
Banauli, P.S.- Paliganj, Distt.- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Human Resource Development Department, Government Of Bihar, Patna
2. The Hon'ble Chancellor Through The Secretary, Raj Bhavan, Patna
3. Magadh University Through The Registrar, Bodh Gaya, Gaya
4. The Vice Chancellor, Magadh University, Bodh Gaya, Gaya
5. The Registrar, Magadh University, Bodh Gaya, Gaya
6. The Registrar, Magadh University, Bodh Gaya, Gaya
7. The Finance Officer, Magadh University, Bodh Gaya, Gaya
8. The Principal, M.D. College, Naubatpur, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar Sinha
For the Magadh University:		Dr. Kumar Amitesh Chandra
For the State	:	Mr. Dinesh Maharaj, AC to AAG-II

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 26-06-2018

The present writ application was filed by the petitioner for a direction to the respondents to absorb service of the petitioner from the date of joining. This writ petition was filed on 4.10.2010.

2. During the last eight years, the matter was listed on numerous occasion and this court was made to understand that the matter is pending for consideration before the Hon'ble Chancellor.

3. From the order sheet dated 11.05.2011, it appears that learned counsel for the Chancellor informed that he will be filing counter affidavit. In the said order, it was mentioned that the matter is pending before the Chancellor from the year 2008. On



16.12.2012, a Coordinate Bench of this court directed the counsel for the petitioner to serve a letter on O.S.D. of the Chancellor informing him that the counter affidavit must be filed in terms of the order dated 11.05.2011 positively, failing which the O.S.D. of the Chancellor may be in the contempt of this court.

4. From the order sheet dated 26.11.2014 indicates on behalf of the Chancellor, prayer was made for adjournment. Again on 2.12.2014 adjournment was sought on behalf of the Chancellor for filing counter affidavit.

5. The order sheet dated 8.1.2015 indicates that counsel for the Hon'ble Chancellor assured the court that within two weeks counter affidavit shall be filed. Once again on 21.6.2017, the court granted indulgence to the counsel for the Chancellor to file counter affidavit. It appears from the order dated 1.9.2017, the court granted further indulgence to the office of the Chancellor to file counter affidavit within a period of four weeks. Even after seven years of passing of the order directing filing of counter affidavit, no counter affidavit has been filed on behalf of the office of the Chancellor.

6. The court does not appreciate the attitude of the counsel for the Chancellor or the Office of the Chancellor in



defying the direction of this Court in the matter of filing of counter affidavit.

7. Learned counsel appearing on behalf of the University informs that till date he has not received any communication from the office of the Hon'ble Chancellor on the point of absorption of petitioner.

8. The issue of absorption as it appears from the order sheet indicated hereinabove is pending before the Hon'ble Chancellor since 2008. Neither any decision was taken at the level of the Hon'ble Chancellor nor any counter affidavit has been filed in the present case.

9. Under the aforesaid circumstances, the court is left with no option but to direct office of the Hon'ble Chancellor to place the issue of absorption of this petitioner before the Hon'ble Chancellor so that the issue may be finally decided as ten years is enough for deciding the issue of absorption.

10. In the peculiar facts and circumstances of the case, the court directs the O.S.D. of the Hon'ble Chancellor to be cautious henceforth in filing counter affidavit so that writ petition may be decided one way or the other.



11. The court expects that the Hon'ble Chancellor may take final decision at the earliest so that the issue may be decided finally.

12. So far as the issue of substitution of the petitioner in the present proceeding is concerned, liberty shall be available to the successor or heirs of the petitioner to file petition before the Hon'ble Chancellor as the issue of absorption involves monetary benefit and as such right to sue survives even after death of the original petitioner.

13. With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.07.2018
Transmission Date	

