

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18129 of 2010

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Kantir Yadav S/O Late Luchai Yadav R/O Vill.- Ramnagra, P.O.- Sankorthu,
Distt.- Madhubani, At Present Working As Assistant In Nqandan Sanaskrit
College, Isahpur, P.O.- Sankurthu, Distt.- Madhubani

... .. Petitioner/s

Versus

1. Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar,
Darbhanga Through Its Registrar
2. Vice-Chancellor Kameshwar Singh Darbhanga Sanskrit University,
Kameshwar Nagar, Darbhanga
3. Registrar Kameshwar Singh Darbhanga Sanskrit University, Kameshwar
Nagar, Darbhanga
4. Principal Nandan Sanskrit College, Isahpur, P.O.- Sankurthu, Distt.-
Madhubani
5. The State Of Bihar Through Principal Secretary (HIGHER Education)
Human Resources Development Department, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Durga Nand Jha, Advocate
For the University	:	Mr. Awadhesh Pd. Sinha, Advocate
For the Respondent/s	:	Mr. Nagendra Pd. Yadav, SC-23
		Ms. Vijaya Laxmi Srivastava AC to SC-23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
Date : 30-07-2018

Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State as well as University.

2. The grievance of the petitioner in the present
writ application is non-consideration of his case for absorption
in terms of Section 4(1) (14) of the Bihar State University Act.

3. Learned counsel for the petitioner submits that
petitioner was appointed in the college in question on
02.02.1981 prior to take over of the college. The college was
made constituent on 31.3.1981 with Kameshwar Singh



Sanskrit University, Kameshwar Nagar, Darbhanga on 31.3.1982. He submits that in terms of Section 4(1)(14) of the Bihar State University Act the assets and liability of affiliated college was taken over by the University including the service of teaching and non-teaching employees of the college.

4. Referring to the judgment of Apex Court in the case of **State of Bihar & Ors. vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors. reported in (2005)9 SCC 129**, he submits that in the matter of absorption under section 4(14), the University is required to take final decision as decision of absorption under section 4(1) (14) is the domain of the University. He further submits that in the instant case the respondents cannot deny absorption, finding fault in the initial appointment that there was the lack of wide circular in the daily news paper for appointment as such plea was rejected by the Apex Court in the case of Mahasangh (Supra). He submits that since petitioner are regularly working in the college in question for the last three decades, the respondents are under obligation to consider the case of the petitioner sympathetically, considering the law laid down by the Apex court.

5. Considering the totality of the facts situation including the judgment of the Apex Court in Mahasangh (Supra)



as well as judgment of the Apex Court in the case of **Amkant Rai vs. State of Bihar & Ors reported in (2015) 8 SCC 265** , the writ petition is disposed of with direction to the respondents to take final decision on the claim of the petitioner for absorption in terms of Section 4(1) (14) of the Bihar State University Act in the light of judgment of the Apex Court in Amakant Rai(Supra) within a period of four months from the date of receipt/production of a copy of this order.

6. It is made clear that taking work and denying remuneration runs contrary to the constitutional mandate of Article 21 and 23 of the Constitution of India.

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

(Anil Kumar Upadhyay, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13.08.2018
Transmission Date	

