

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5985 of 2018

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Upendra Singh, Son of Shiv Nandan Singh, Resident of Village-Sarai Tola
Mathurapur, P.S.-Kurtha, District-Arwal.

... .. Petitioner/s

Versus

1. The Chancellor of The Universities Bihar, Raj Bhawan, Patna.
2. The Magadh University Boadhgaya through Vice Chancellor Magadh University, Boadh gaya.
3. The Registrar Magadh University, Boadh Gaya.
4. The Secretary of the Governing Body of Saheed Jagdeo Smarak College Kurtha, District-Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shivendra Prasad
For the Chancellor	:	Mr. Rajendra Kumar Giri
For the MU	:	Mr. Ritesh Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 06-08-2018 The petitioner is aggrieved by an order, dated 16.02.2018, passed by the Chancellor of the Universities, Bihar in MU (Appeal) No. 28/2013, whereby a review application filed by the Secretary of the Governing Body of Saheed Jagdeo Smarak College, Kurtha, District-Arwal, has been allowed and an earlier order passed by the Chancellor of the Universities dated 29.04.2016, has been recalled.

2. By order, dated 16.02.2018, passed by the Chancellor of the Universities, an appeal preferred by the petitioner against the order of the Magadh University, Bodh Gaya, dated 07.11.2012, rejecting his claim to be a donor



member of the Governing Body of the said College, was allowed. By the said order, dated 29.04.2016, the Chancellor of the Universities had held that deed of gift executed by the petitioner in favour of the College, was genuine and valid and was a legal document, and on that basis the petitioner was entitled to be declared as donor member of the College, because till then no one had been declared as donor member of the Governing Body of the aforesaid College. The Secretary of the Governing Body of the College had filed a review application before the Chancellor, Universities of Bihar. The Chancellor, upon reconsideration of the entire materials on record, held the petitioner to be disqualified to become donor member of the College, by his order dated 16.02.2018, paragraph 16 of which reads thus:-

“16. From the above facts and circumstances, it has been established that Upendra Singh had no right to gift 15 decimals of land and further he sold the 11 decimals of land, there was no remaining land of Upendra Singh in the said Plot. The gift deed was not accepted by the Governing Body of the College. These facts clearly indicate that the said order dated 29-04-2016 appears to have been passed in absence of real fact, which ought to have



been brought to the notice of the Hon'ble Chancellor."

3. There is finding recorded by the chancellor of the Universities that the petitioner did not have right to execute the gift deed as he had already sold 11 decimals of land out of his joint family property and there was no land remaining, which could be said to be belonging to the petitioner in the said plot. It has also been held that the gift deed was not accepted by the Governing Body of the College.

4. On reading of the two orders, I find that the title of the petitioner in respect of the land, which land he claims to have transferred in favour of the College itself is in serious dispute. There is another dispute in respect of the acceptance of the gift deed by the Governing Body of the College.

5. The jurisdiction of the Chancellor to review the order is not being questioned by the petitioner. The grounds on which the order has been reviewed, are valid grounds for review of an order. In that background, the disputes which arise in the light of the two orders, passed by the Chancellor, cannot be adjudicated upon in a proceeding under Article 226 of the Constitution of India.

6. The relief which the petitioner is seeking, cannot



be granted in the present proceeding, since it involves the disputed questions of fact.

7. Learned counsel for the petitioner informs that the title suit has been decided in favour of the petitioner, in which he has been held to be the owner of the land in question. I need not go into that aspect of the matter at present.

8. In view of the clear finding recorded by the Chancellor on the point of absence of the gift deed in question, by the College, no positive order can be passed in favour of the petitioner, for the purpose of consideration of his claim of being member of the Governing Body. It will be, however, open to the petitioner to approach competent court of civil jurisdiction questioning the said finding in the impugned order.

9. This application stands disposed of.

(Chakradhari Sharan Singh, J)

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