

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5680 of 2011

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(DR.)Shashi Nath Jha Late Ganga Nath Jha Resident Of Mohalla- New Colony, Shubhankarpur, P.S. Town Thana, At & P.O.- Darbhanga, District- Darbhanga (BIHAR)

... .. Petitioner/S

Versus

1. Kameshwar Singh Darbhanga Sanskrit University Through Its Registrar Darbhanga
2. The Registrar Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
3. The Vice-Chancellor Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
4. The Registrar-In-Charge Kameshwar Singh Darbhanga Sanskrit University, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. T.N.Maitin, Sr. Advocate Mr. Shashi Nath Jha, Advocate
For the University	:	Mr. Tej Bahadur Singh, Sr. Advocate Ms. Renu Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 20-06-2018

Heard Mr. T.N.Maitin, learned senior counsel appearing for the petitioner and Mr. Tej Bahadur Singh, learned senior counsel appearing on behalf of the University.

2. The petitioner is aggrieved by the order dated 10.3.2011, contained in Annexure-5, whereby the Vice Chancellor of the Kameshwar Singh Darbhanga Sanskrit University has cancelled the promotion granted to this petitioner on the post of Reader as well as Professor on the ground that lien granted to the petitioner for the period from 26.07.1985 to 02.10.1994 was not in accordance with law.



3. Manifold submissions have been advanced by Mr. T.N.Maitin, learned senior counsel appearing for the petitioner in support of the writ petition. Firstly, he submitted that the University has no jurisdiction to review the order granting lien once the University has consciously granted lien to this petitioner after deliberation in the meeting of the Syndicate as is evident from Annexure-2. The University has absolutely no jurisdiction to review its conscious decision as there is no provision of review under the Bihar State Universities Act. The law in this regard is well settled by the Apex Court in the case of **Kuntesh Gupta Vs. Behrampur University: AIR 1987 SC 2186** wherein the Apex Court has categorically held out that the jurisdiction of review is available if the law provides. In the present case under the Act or the Statute the University has got no jurisdiction to review the order passed earlier. The second submission advanced by Mr. Maitin in support of the writ petition is that the petitioner was granted promotion vide order dated 15.9.1994, Annexure-3 on the recommendation of the appropriate committee and on approval of the Syndicate. The decision granting promotion in 1994 cannot be annulled after long 17 years that too without following the principles of natural justice and fair play. He next submitted that the promotion granted to this petitioner cannot be set at naught on



the ground of some infirmity in the matter of grant of lien which was granted way back in 1994. The decision of cancelling promotion as Reader and Professor with effect from 17.9.1989 and 17.9.1995 is unsustainable in view of the fact that the order granting promotion cannot be annulled arbitrarily without reasonable opportunity of hearing.

4. Mr. Tej Bahadur Singh, learned senior counsel appearing on behalf of the University submits that the petitioner was granted lien contrary to law and as such, the respondents have committed no illegality in cancelling the promotion granted to the petitioner. However, he has no answer to the question that the University has no power of review under the Bihar State Universities Act. He has no explanation as to why 17 long years time was consumed in finding fault in the decision making of the University while granting lien to the petitioner. He has no explanation how the University can nullify/cancel the promotion after 17 long years in the name of illegality in granting lien. There should be some limit in the action of the institution like University in cancelling their decision and reviewing the order of promotion. There is no decision to recall or nullify the order granting lien and cancelling promotion on the ground of irregularity or illegality in



the decision of the university in grant of lien which has not been annulled in accordance with law as yet.

5. The Court in the present fact situation does not approve the action of the respondent-University to re-open the matter after 17 long years particularly when the University has got no jurisdiction under the Act to review the decision taken by the Syndicate of the University while granting lien to this petitioner and the promotion granted on the recommendation of the competent selection committee and duly notified by the University after due deliberation in the meeting of the Syndicate.

6. In view of the above, the impugned order dated 10.3.2011, as contained in Annexure-5 to the writ petition, is hereby quashed and the writ petition stands allowed.

7. The respondents are directed to restore the promotion granted to the petitioner with all consequential benefits forthwith.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2018
Transmission Date	

