

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.25253 of 2013**

Shyama Nand Jha, son of late Sahdeo Jha, resident of village- Sukhsaina, P.O-  
Bhatottar Chakla, P.S.- Barhara, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Higher Education, Govt. of Bihar, New Secertariat, Bailey Road, Patna.
2. The Education Commissioner, Patna.
3. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, Bihar.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, Bihar.
5. The Secretary, Radha Umakant Sanskrit Mahavidyalaya, Sukhsaina, P.O- Bhatottar, Chakla, P.S.- Barhara, District- Purnia.
6. The Principal, Radha Umakant Sanskrit Mahavidyalaya, Sukhsaina, P.O- Bhatottar, Chakla, P.S.- Barhara, District- Purnia.

... .. Respondent/s

**Appearance :**

|                      |   |                                   |
|----------------------|---|-----------------------------------|
| For the Petitioner/s | : | Mr. Madhav Roy, Advocate.         |
| For the State        | : | Mr. Tripurari Nath, Advocate      |
| For the University   | : | Mr. Awadhesh Pd. Sinha, Advocate. |

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**  
**ORAL JUDGMENT**

**Date : 04-10-2018**

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

2. Petitioner has filed the present writ application for a  
direction to the respondents to accord approval of the  
appointment to the petitioner as Lecturer in Maithili Department  
and issue consequential order.

3. The writ application was filed on 19.12.2013 even  
after approximately five long years passed, the University has  
not filed any counter affidavit and on behalf of the State, a  
formality was completed by way of filing counter affidavit. In



the counter affidavit, the stand was taken by the State that the University is liable for the claim of the petitioner and only management of the concerned college is competent to reply.

4. Petitioner was initially appointed in the college on honorarium basis. Later on, subsequent to Advertisement dated 27.06.1981, petitioner was appointed on the basis of recommendation of the expert as Lecturer in Mathili on the understanding that payment shall be made on the receipt of the fund of the University.

5. Learned counsel appearing on behalf of the petitioner submits that in terms of the Statutes for regularization of service of the Hon'ble Chancellor dated 29<sup>th</sup> January, 1985, petitioner was eligible for absorption as temporary Lecturer as he is fulfilling the conditions for regularization of service as Lecturer on temporary basis. Referring to Annexure-7 of the writ application, learned counsel submits that the University has provisionally approved the services of the petitioner for the post of Lecturer in Maithili on 22.09.1982. Learned counsel submits that on account of affiliation in the subject Maithili, the post of Lecturer in Maithili shall be deemed to be sanctioned in view of decision of the Government dated 30<sup>th</sup> January, 1979 wherein it has been indicated as to creation of post on grant of affiliation



of the colleges. Learned counsel further referred to Annexure-11 whereby the Principal of the college was asked to submit details of the teachers for absorption in prescribed format including the case of the petitioner and thereafter vide Annexure-12, the Registrar once again asked the Principal/Incharge Principal of the concerned colleges, where teachers were working on provisional basis, to make available the relevant documents with respect to them, so that appropriate decision may be taken for their absorption. Referring to the aforesaid communication, it is submitted that notwithstanding the appointment of the petitioner made after following the due advertisement and regularization process against the vacant post, the petitioner was denied the due salary and other allowances admissible to a regular employee due to reluctance of the respondents-University.

6. The reluctance on the part of the University is writ large even in the present proceeding, even after nearly five years, the University has not filed any counter affidavit. The petitioner has attained the age of superannuation without getting the benefit of regularization.

7. In view of the above, the writ application is disposed of with a direction to the respondents-University to take immediate appropriate decision with regard to claim of the



petitioner for regularization under the Statute for regularization and forward the same to the Hon’ble Chancellor and the State, within a maximum period of 60 days from the date of receipt/production of a copy of this order.

8. The Court hope and trust that appropriate final decision with regard to regularization of service of the petitioner, in terms of the Statute for regularization of the Hon’ble Chancellor, will be taken within a further period of three months from the date of recommendation of the University. After final decision taken on the regularization of the petitioner, the respondents are required to work out the consequential benefit of the petitioner and make payment thereof to him.

**(Anil Kumar Upadhyay, J)**

sujit/-

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| AFR/NAFR          | NAFR |
| CAV DATE          | NA   |
| Uploading Date    |      |
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