

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22316 of 2013

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1. Bindeshwar Mandal , Peon Son Of Gopi Mandal Nagarjun Umesh Sanskrit College, Tarauni, P.O. - Vishwanathpur Tarauni, Via - Nehra, District Darbhanga Resident Of Village Charauli, P.S. Bahera, District - Darbhanga
 2. Hari Narayan Mandal Son Of Manal Mandal Mali, Nagarjun Umesh Sanskrit College, Tarauni, P.O. Vishwanathpur Tarauni, Via - Nehra, District Darbhanga Resident Of Village Bari Tarauni, P.S. Tarauni, District Darbhanga
 3. Ramant Jha Son Of Aditya Jha Peon, Nagarjun Umesh Sanskrit College, Tarauni, P.O. Vishwanathpur Tarauni, Via - Nehra, District Darbhanga Resident Of Village Dahora, Via - Sakari, District - Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resource Development Department, Government Of Bihar, Vikas Bhawan, New Secretariat, Bihar, Patna
3. The Kameshwar Singh Darbhanga Sanskrit University Through It'S Registrar, Kameshwar Nagar, Darbhanga
4. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga
5. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga
6. The Principal, Nagarjun Umesh Sanskrit College, Tarauni, P.O. - Vishwanathpur Tarauni, Via - Nehra, District - Darbhanga

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 22332 of 2013

Binay Kumar Jha, P.T.I. Son Of Nasingh Jha Nagarjun Umesh Sanskrit College, Tarauni, P.O.- Vishwanathpur Tarauni, Via- Nehra, District Darbhanga Resident Of Village- Babupali, P.S. Khajauli, District- Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Reseources Development Department, Government Of Bihar, Vikas Bhawan, New Secretariat, Bihar, Patna
3. The Kameshwar Singh Darbhanga Sanskrit University Through Its Registrar Kameshwar Nagar, Darbhanga
4. The Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga
5. The Registrar Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga
6. The Principal, Nagarjun Umesh Sanskrit College, Tarauni, P.O.- Vishwanathpur Tarauni, Via- Nehra, District- Darbhanga

... .. Respondent/s



Appearance :

(In Civil Writ Jurisdiction Case No. 22316 of 2013)

For the Petitioner/s : Mr. Yugal Kishore, Sr. Advocate
Mr. Ugranath Mallik, Advocate
For the State : Mr. Amaresh Kumar Sinha, AC to GA-1
For the University : Mr. Gyanand Rai, Advocate
(In Civil Writ Jurisdiction Case No. 22332 of 2013)
For the Petitioner/s : Mr. Ugranath Mallik, Advocate
For the State : Mr. Raghwanand, GA-11
Mr. Sanjay Kr. Tiwari, AC to GA-11
For the University : Mr. Awadhesh Pd. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 30-07-2018

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

2. The petitioners seek quashing of the letters dated 13.2.2013 and 28.2.2013, contained in Annexures-7 and 8 whereby the petitioners have been terminated from their services and for all consequential benefits after quashing of Annexures 7 and 8.

3. Learned counsel for the petitioners submits that the petitioners were regularly working and their cases were recommended for regularization by the University but before the State could take final decision on the recommendation of the University for regularization of services of the petitioner, the University passed order dispensing with the services of the petitioners.

4. Learned counsel for the University submits that the University has recommended the case of the petitioners favourably



but since there is no decision by the State Government in terms of Section 35 of the Bihar State Universities Act, the University was left with no option but to dispense with the services of the petitioners as the State has not approved the recommendation of the University in favour of the petitioners.

5. On behalf of the respondent-State a counter affidavit has been filed wherein stand has been taken that four posts of non-teaching employees is admissible in the colleges 2 posts, i.e., of class III and 2 posts of Class IV.

6. Learned counsel for the petitioners submits that the State is State and it cannot adopt different yardstick for different colleges. They also cannot restrict the post in Sanskrit College ignoring the fact that the posts are based on need and if there is requirement of additional posts, the State cannot deny the same. Additionally, the submission on behalf of the petitioners is that in terms of the staffing pattern posts admissible has to be treated as deemed sanctioned posts and respondents are not justified in not considering the case of the petitioners for regularization after the judgment of the Full Bench in the case of **Braj Kishore Singh Vs. The State of Bihar & Ors. : 1997 (1) PLJR 509.**

7. Mr. Yugal Kishore, learned senior counsel appearing on behalf of the petitioners submits that respondents are required



to examine the case of the petitioners in the light of their own decision contained in letter No. 1820 dated 17.11.1998. In addition thereto, he has placed reliance on the judgment of the Apex Court in the case of *Amarkant Rai vs State of Bihar & Ors. in Civil Appeal No. 2835 of 2015* (Arising out of SLP (Civil) No. 20169/2013) reported in (2015) 8 SCC 265.

8. Considering the aforesaid, the State Government is directed to take fresh decision with regard to these petitioners in the light of letter No. 1820 dated 17.11.1998 and the latest judgment of the Apex Court in the case of Amarkant Rai (supra) where in similar fact situation the Apex Court has issued direction for regularization. Fresh decision may be taken within a period of four months from the date of receipt/production of a copy of this judgment.

9. With the aforesaid, both the writ petitions stand disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018
Transmission Date	

