

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 8350 of 2017**

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Arghanand Sharma, Son of Late Sarbanand Sharma, Professor Incharge of  
Chandradeo Prasad Verma College, at Simari, P.S.- Bihata, District- Patna.

.... .... Petitioner/s

Versus

1. The Magadh University, Bodh Gaya through Its Registrar.
2. The Vice Chancellor, Magadh University, Bodh Gaya.
3. The Registrar, Magadh University, Bodh Gaya.
4. The Ad-hoc Committee of Chandradeo Prasad Verma College, Simari through  
Dr. Radhey Kant Prasad, University Representative-cum-Secretary, C.P. Verma  
College, Simri Bihta, Patna.
5. Shri Ramesh Prasad Verma, Son of Late Vyas Prasad Verma, Resident of  
Village- Doghra, P.O.- Bahpura, P.S.- Bihata, District- Patna.
6. The Senior Superintendent of Police, Patna.
7. Madhya Bihar Gramin Bank through the Branch Manager, Anandpur, Bihta.

.... .... Respondent/s

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**Appearance :**

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|--------------------------|---|--------------------------------------------|
| For the Petitioner/s     | : | Mr. Kumod Kumar Shrivastav, Advocate       |
| For the respondent State | : | Mr. Prabhakar Jha, GP-27                   |
| For the Respondent no. 5 | : | Mr. Navin Prasad Singh, Advocate           |
|                          | : | Mr. Narayan Singh, Advocate                |
| For the University       | : | Dr. Kumar Amitesh Chandra, Advocate        |
| For the Bank             | : | Mr. Mahesh Narayan Prabat, Senior Advocate |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 30-03-2018**

Heard learned counsel for the petitioner; State; Magadh  
University (hereinafter referred to as the 'University'); respondent no.  
5 and Madhya Bihar Gramin Bank.

2. The petitioner has moved the Court for the following  
reliefs:

*“That this is an application for issuance of  
appropriate writ, order/direction for quashing the  
letter no. 109/GIIB/17 dated 08.05.2017 of  
Registrar, Magadh University, Body-Gaya*



*whereby the private respondent's appointment has been approved as Principal of C.P. Verma College, Simari, Bihata which is a affiliated college inspite of writ being CWJC No. 5613 of 2011 of Ramesh Prasad Verma being dismissed on 18.01.2012 for the same relief, by declaring consequently also decision of the ad-hoc committee has illegal and unauthorized."*

3. The petitioner and the respondent not 5 have been fighting over the issue as to who is the rightful Principal / Professor In-charge of Chandradeo Prasad Verma College, Simari, Bihta (hereinafter referred to as the 'College') in the district of Patna affiliated to Magadh University. The petitioner claims that initially he was appointed as Professor In-charge of the College by the Managing Committee. Thereafter, in the year 2002 the College Service Commission recommended the name of two persons for being appointed as Principal. The respondent no. 5 was at Sl. No. 1 and another person was at Sl. No. 2, whereas the petitioner was not in the list as he was never an applicant for the post. Thus, the respondent no. 5 was appointed as Principal on 25.02.2003 and the matter was referred to the University for approval, which was also granted. In the meantime, the respondent no. 5 moved the Court in C.W.J.C. No. 5613 of 2011 for being declared as Principal with a prayer that the



petitioner may not be recognized as Professor In-charge as the respondent no. 5 had been legally appointed to the post of Principal and to direct the authorities to recognize him as Principal. The said writ petition was dismissed giving liberty to the respondent no. 5 to move before the Civil Court of Competent Jurisdiction for appropriate declaration. The respondent no. 5 moved in L. P.A. No. 123 of 2015 which was disposed off with liberty to challenge the cancellation of his approval, as by that time the University had also withdrawn approval on 16.09.2014, and it was observed that the order passed by the learned Single Judge in C.W.J.C. No. 5613 of 2011 dated 18.01.2012 will not come in his way to avail the remedy of writ petition against the action of withdrawn of approval. However, the respondent no. 5 again moved before the University and by order dated 08.05.2017, the respondent no. 5 was once again approved as Principal of the College by the University. The said notification is impugned in the present writ petition.

4. Learned counsel for the petitioner submitted that despite the respondent no. 5 having been appointed, he continued to work somewhere else and never joined on the post and, thus, the petitioner continued as Professor In-charge. It was contended that the University also realized that the approval given to the appointment of the respondent no. 5 was not proper and, thus, by order dated



16.09.2014, it had withdrawn its approval to such appointment. Learned counsel submitted that at this point of time, the respondent no. 5 somehow prevailed upon the University to get fresh approval of his appointment, which is in the teeth of the order of the Division Bench in L.P.A. No. 123 of 2015, which had granted him liberty to assail the cancellation of approval dated 16.09.2014 by availing the remedy of writ petition which was not done. He, thus, submitted that the order impugned by the University itself again approving the appointment of the petitioner on the post of Principal is unsustainable in the eyes of law and it should be interfered with. Learned counsel submitted that the decision of the Managing Committee itself is bad as it indicates that it is in terms of the order of the Court in L.P.A. No. 123 of 2015, which is erroneous.

5. Learned counsel for the University submitted that the University has the power to independently look into the issue without there being any direction from any quarter and in the present case, the University has taken a decision not with regard to the earlier request for approval but with regard to the decision taken by the Managing Committee subsequently on 28.03.2017 and 02.05.2017 which has been approved on 08.05.2017 by the impugned order by the University and that has nothing to do with the liberty given to the respondent no. 5 to move before any appropriate forum as it was a



fresh action taken by the University based on a report submitted by a Three Men Fact Finding Committee which had found that the appointment of the respondent no. 5 legally correct and the Managing Committee had also taken a decision in this regard. Learned counsel submitted that the decision of the Managing Committee only takes note of the order of the Division Bench in L.P.A. No. 123 of 2015, but independently it has also considered the matter in the background of the report submitted by the Three Men Fact Finding Committee.

6. Learned counsel for the respondent no. 5 submitted that the matters which have happened in the past are now history and what has happened, the clock cannot be turned back and the issue in the present writ petition is not the initial appointment of the respondent no. 5 as Principal and the approval of which was withdrawn in the year 2014, but the subsequent positive order in his favour based on the report submitted by the Three Men Fact Finding Committee as well as the decision of the Managing Committee appointing him as Principal, which was of the year 2017 and, thus, any decision prior to that date shall not have any adverse impact on the order impugned.

7. Having considered the matter, the Court does not find any merit in the writ petition. The approval of the appointment of the respondent no. 5 as Principal by the University by order dated



08.05.2017 has no past history, in the sense, that it is not affected by any order of any Court. It was an action based on the fresh decisions of the Managing Committee of the College dated 28.03.2017 and 02.05.2017 and the University also got it verified by the Three Men Fact Finding Committee and, thus, upon its satisfaction, after verifying all these facts, the approval has been given on 08.05.2017 any observation which may have been made by the Division Bench earlier in L.P.A. No. 123 of 2015 dated 21.04.2016 referred only to the initial withdrawal of recognition dated 16.09.2014, which is no more an issue, either in the present case or even otherwise. An additional fact in favour of the respondent no. 5 and the decision of the University is that the Syndicate has also approved fresh appointment of the respondent no. 5 on the post of Principal of the College on 04.07.2017. Thus, taking an overall view in the matter, the Court finds that there is no occasion for any interference as the Managing Committee is an independent body to take a decision and when nothing has been pointed out with regard to any disability or disqualification of the respondent no. 5 to hold the post and also taking into account the fact that in the year 2002 itself he was recommended by the statutory body i.e., the College Service Commission and his name was at SL. No. 1 of the recommended list and subsequently the Managing Committee has reiterated its decision



and the University has also approved it after the report of the Three Men Fact Finding Committee and the same has also been approved by the highest decision making body of the University i.e., the Syndicate, the same cannot be said to be illegal requiring any interference.

8. The Court would indicate another connected matter, inasmuch as, it was brought to the notice of the Court during the proceedings that the petitioner, without being authorized by the University to collect any money from students for appearing at the University Examination, had done so in his private account and the amount ran upto almost Rupees Two Crores and when the Court directed the Senior Superintendent of Police to enquire, it was found true and surprisingly within a few days of such finding, whatever amount was remaining in the account, was also substantially withdrawn. For such matter, there is already a substantive F.I.R. bearing Bihta P.S. Case No. 164 of 2018 dated 19.02.2018 lodged against the petitioner and others. Moreover, to the direct query of the Court to learned counsel for the petitioner as to why and under what authority any amount collected by the students was deposited in his private account and not the official account of the College, learned counsel had no answer or explanation for the same. Here, the Court would further observe that if at all the petitioner has any grievance



with regard to wrong consideration on facts by the Managing Committee, now it is his turn to approach the Civil Court of Competent Jurisdiction, because issues based primarily on facts have to be adjudicated by a Civil Court of Competent Jurisdiction after evidence being adduced and not in a writ petition under Article 226 of the Constitution of India.

9. Thus, taking an overall view, both on merits and facts as well as the conduct of the petitioner, which in no way can be said to be clean, the writ petition stands dismissed.

10. Before parting with the order, the Court would indicate that the order was dictated in open Court and no other point was argued/canvassed before the Court on behalf of the petitioner.

**(Ahsanuddin Amanullah, J)**

Anjani/-

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