

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.944 of 2018

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Yogendra Prasad, S/o Late Sobhi Prasad, presently working as a Lab Boy in the Department of Physics, Ram Lakhan Singh Yadav College, Aurangabad at Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna.
3. The Magadh University, Bodh Gaya through its Registrar.
4. The Vice Chancellor, Magadh University, Bodh Gaya at Bodh Gaya.
5. The Registrar, Magadh University, Bodh Gaya at Bodh Gaya.
6. The Finance Officer, Magadh University, Bodh Gaya at Bodh Gaya.
7. The Principal, Ram Lakhan Singh Yadav College, Aurangabad at Aurangabad.
8. Mandeo Singh @ Mandeep Kumar, S/o not known presently working as a Lab Boy in the Department of Physics, Ram Lakhan Singh Yadav College, Aurangabad at Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Kumar, Advocate

For the Respondent/s : Mr. M. Pd. Yadaw, GP23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 18-07-2018

Heard learned counsel for the petitioner, State and the University.

2. Learned counsel appearing on behalf of the petitioner in this writ application submits that the petitioner was initially appointed in the affiliated college on non-teaching post. He continued after take over and he was paid salary regularly, although his name was not included in Letter 25(C) issued by the State Government for provisional absorption. Learned counsel submits that the petitioner



was regularly paid salary and decision was taken by the University for absorption, but at the dictate of the State Government, the University has not issued follow up notification of absorption.

3. Considering the fact that the decision of absorption is the domain of the University under Section 4 (1)(14) of the Bihar State Universities Act as held out by the Apex Court in the case of **State of Bihar & Ors. Vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors.**, reported in **(2005) 9 SCC 129** and the State has no role to play in the matter of taking decision under Section 4 (1)(14) of the Bihar State Universities Act, the writ application is disposed of with a direction to the University to consider the case of the petitioner and if it is found that the petitioner was appointed before the cut off date of take over and if he is regularly working and he has requisite qualification on the date of appointment and if the posts are available, the University will consider the case for absorption of the petitioner and take final decision without being influenced by the direction of the State Government for absorption under Section 4 (1)(14) of the Bihar State Universities Act.

4. Final decision in this regard must be taken by the respondent University within a period of four months from the date of receipt/production of a copy of this order. The consequential



benefit will abide by the final decision of the University.

5. With the aforesaid, the writ application stands disposed.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.07.2018
Transmission Date	

