

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2273 of 2018

Dr. Nilakant, Son of Late Srikant Mandal, Resident of Ward No.-2
Nandnagar, Nagar Parishad, P.S. & District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department Government of Bihar, Patna.
2. The Bhupendra Narayan Mandal University, Lalunagar, Madhepura through its Vice Chancellor.
3. The Registrar, Bhupendra Narayan Mandal University, Lalunagar, Madhepura.
4. The Secretary, Raghunandan Prasad Mandal Degree College, Tuniyahi, Madhepura.
5. Dr. Rabindra Yadav S/o Jageshwar Prasad Yadav Head of the department of Economics, Raghunandan Prasad Mandal Degree Collage at Tuniyahi, P.S. Town, District- Madhepura.
6. Dr. Arun Kumar Yadav S/o Sri Kusheshwar Prasad Yadav Lecturer in Department of Ancient Indian History, Raghunandan Prasad Mandal Degree Collage at Tuniyahi, P.S. Town, District- Madhepura.
7. Dr. Baidyanath Yadav S/o late Deo Narain Yadav Head of Department at Physics, Raghunandan Prasad Mandal Degree Collage at Tuniyahi, P.S. Town, District- Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pranav Kumar
For the Respondent/s	:	Mr. Smt. Shilpa Singh- GA-12 with Mr. Ram Vinay Pd. Singh, AC to GA-12
For the University	:	Ms. Vandana Kishore
For the pvt. Respondents	:	Mr. Amresh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 10-07-2018 This application has been filed seeking quashing of memo no. 1264/2017 dated 31.10.2017, issued by the Bhupendra Narayan Mandal University, Lalunagar, Madhepura (hereinafter referred to as 'the University'), under the signature of its Registrar addressed to the Professor-Incharge, Raghunandan Prasad Mandal Degree College, Tuniyahi, Madhepura (hereinafter



referred to as 'the college'), informing him that selection/election of 'donor member' and teachers' representative member of the Governing Body of the said college, which is affiliated to the University, is not acceptable to the University for failure on the part of the college to abide by the conditions contained in Memo No. GS (IC-117/13)-876/13, dated 26.02.2013.

2. The petitioner claims that he was elected teachers' representative member on the basis of an election held in the college on 14.10.2017. There is no dispute that the University has put a condition that election to these posts must be held in the presence of an observer to be sent by the University. Mainly on the ground that the said election was not held in the presence of the observer, the University is not recognizing election of the petitioner as teachers' representative member of the Governing Body of the affiliated college.

3. Learned counsel appearing on behalf of the petitioner, has very vehemently argued that the Bihar State Universities Act does not contemplate nomination of any Observer by the University in whose presence only such election can be held. He contends that absence of the Observer nominated by the University cannot be a legally valid ground for the University to refuse to recognize the petitioner as an elected teachers' representative of the college. The petitioner,



accordingly, seeks quashing of the said memo dated 31.10.2017 to the extent it relates to the election of the petitioner as teachers' representative.

4. A counter affidavit has been filed on behalf of the University, justifying the requirement of presence of an Observer during election to such posts are held. One intervention application has also been filed being I.A. No. 2502 of 2018 by three teachers of the college, bringing on record the letter dated 29.01.2013, issued from the office of the Chancellor, in need for election to such posts in democratic manner has been emphasized.

5. Learned counsel for the petitioner has, in response to intervention application submitted that the intervenor respondents had also participated in the process of election and they cannot now question the validity of the result of such election, after having become unsuccessful.

6. It is evincible from the records that it is in compliance of the said decision of the office of the Chancellor as communicated through letter dated 29.01.2013 that the University issued its letter dated 26.02.2013 addressed to all the Principals/Professors In-charge of affiliated colleges under the University to ensure that the dates fixed for election to the posts of donor member and teachers' representative member of the



Governing Body be communicated to the University for the purpose of deputation of the a University Observer.

7. Mr. Amresh Kumar Singh, learned counsel appearing on behalf of intervenor-respondents, has contended that Section 60 of the Act contemplates constitution of Governing Body for the management and administration of affiliated colleges which must consist of 'a member elected by and from amongst the teachers of the college'. He has referred to Annexure-3 of the writ application, which is being relied on by the petitioner to contend that he was duly elected, and has argued that the said annexure itself shows that there was no election held for the post of teachers' representative member.

8. Ms. Vandana Kishore, learned counsel appearing on behalf of the University, has also submitted that to ensure purity in the process of election it was thought appropriate by the office of the Chancellor to emphasize the need of filling up of these posts through fair and democratic process. In order to ensure fairness, it has rightly been decided by the University to provide that such elections must be held in the presence of an Observer to be nominated by the University, she contends.

9. Mr. Amresh Kumar Singh, learned counsel appearing on behalf of the intervenor-respondents, appears to be correct in his submission that Section 60(1)(ii) of the Act



mandates 'election' of teachers' representative member of the Governing Body of a college. It is apparent from Annexure-3 to the writ application that on 14.10.2017, there was a meeting held for electing teachers' representative of the college. There is mention in the proceedings of the said meeting that there were four nominations filed. It also appears that the members present decided to confer upon the Professor-In-charge of the college authority to exercise discretion for selecting either of the four aspirants for the post. The Professor-In-charge, accordingly, in his opinion found the petitioner to be most suitable for the said post, and accordingly, he was declared elected.

10. What happened in meeting on 14.10.2017 could not be treated to be an election in strict sense of the term and the decision of the teachers to confer upon the Professor-In-charge, a discretion to select teachers' representative member cannot be held to be election within the meaning of Section 60(1)(ii) of the Act.

11. In such circumstance, this Court is not inclined to interfere with the impugned decision of the University refusing to accept the so called election of the petitioner as teachers' representative member.

12. I am also of the view, that though there is no provision under the Bihar State Universities Act prescribing the



manner and procedure for election, in order to ensure that elections are held fairly and in a transparent manner, appropriate directions can be issued by the Chancellor of the University or Vice Chancellor of the University requiring presence of Observer at the time of election.

12. I do not find any reason to interfere with the impugned action in view of the discussions as above.

13. This application is, accordingly, dismissed.

14. The professor-In-charge of the college is directed to fix a date for election of 'teachers' representative member' as also 'donor member' which must not be beyond two months from today. Fixation of date must be intimated to the University well in advance. The University shall thereafter, ensure the presence of an Observer at the time of election. Consequential decision in the direction of constitution of Governing Body must be taken immediately thereafter.

(Chakradhari Sharan Singh, J)

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