

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17098 of 2017**

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Bala Ji Singh Son of late Suryabansh Singh Resident of Village- Narayanpur,  
P.O. Dawath, Police Station- Surajpura, District- Rohtas (Bihar) at Present  
Incharge Principal of the Badri Narayan College, Indore, Rohtas.

... .. Petitioner/s

Versus

1. Veer Kunwar Singh University Through Its Registrar At Ara.
2. The Vice Chancellor , Veer Kunwar Singh University at Ara.
3. The Registrar, Veer Kunwar Singh University at Ara.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sarvadeo Singh, Advocate  
For the Respondent/s : Mr. S.F.Raza, Advocate

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

5      11-05-2018                      Heard learned counsel for the petitioner and the  
counsel appearing on behalf of the State.

Petitioner is aggrieved by the order contained in  
Annexure-1 whereby the governing body of the college was  
dissolved under the order of Vice-Chancellor of the Veer  
Kunwar Singh University and communication to that effect was  
made to the Principal, President Secretary of the Governing  
Body of Badri Narayan College, Indore, Rohtas.

Learned counsel for the petitioner has drawn attention  
of the court to the impugned order contained in Annexure-1 to  
submit that this kind of order is impermissible under the  
University Act and Statutues. He submits that without any  
opportunity of hearing respondents cannot take any decision of



dissolution of governing body of the college and removal of the principal of the college.

Mr. Raja, learned counsel of the University has drawn attention of this court to statute 32 in particular Clause 28 of the statute which is quoted hereinbelow for ready reference:-

**“(1) The Syndicate may on its own motion or at the instance of the Vice-Chancellor (I) suspend the Governing Body for a specific period or (ii) dissolve a Governing Body and order its re-constitution, or (iii) cancel grant-in-aid to the college concerned, if in the opinion of the Syndicate any such action is necessary to be taken for any one or more of the following reasons:-**

**(a) that the college has failed to comply with the directions issued by the Syndicate under the laws of the University within a specific time,**

**(b) That the college has failed to observe the provisions of the laws of the University,**

**(c) That the accounts of the grants made to the college have been improperly unlisted, and**

**(d) That the affairs of the college in the opinion of the Syndicate have been grossly mismanaged:**

**Provided however, that the before ordering suspension; or dissolution of the Governing Body or before passing any other order indicated above the Syndicate shall give a reasonable opportunity to the Governing Body to show cause against such action.**

**(2) The Syndicate shall, in case any order for suspension or dissolution of a Governing Body is passed, appoint any Ad-hoc committee to exercise the powers and perform the duties of the Governing Body until expiry of the period of suspension or the re-constituting of the Governing**



**Body, as the case may be.”**

Under clause 28 the power to dissolve the Governing

Body is permissible under the following heads:-

**(a) that the college has failed to comply with the directions issued by the Syndicate under the laws of the University within a specific time,**

**(b) That the college has failed to observe the provisions of the laws of the University,**

**(c) That the accounts of the grants made to the college have been improperly unlisted, and**

**(d) That the affairs of the college in the opinion of the Syndicate have been grossly mismanaged:**

However, that power is exercised by the Syndicate and proviso to Clause-28 in most unambiguous terms indicate that before taking any decision Syndicate is required to give reasonable opportunity to the Governing Body to show cause against such decision. Admittedly, the order contained in Annexure-1 was not passed by the Syndicate of the University. The order was passed by the Vice-Chancellor who has absolutely no jurisdiction to pass such order. Secondly, if it is none of the case, the present case does not fall in any of the category which permits the Syndicate to take action for dissolution of the Governing Body. Thirdly and the most important aspect of the violation of the Statute is admittedly in



the instant order was passed in breach of the provision contemplate under the proviso of Clause-28 which enjoins a duty on the Syndicate to provide reasonable opportunity of hearing before taking such action. Admittedly, in the present case in hot haste decision was taken and no effort was made to provide reasonable opportunity in terms of proviso of Clause 28 (i) of the Statute.

In view of the above, the court is of the considered view that the order contained in Annexure-1 is totally without jurisdiction and has been passed in complete violation of principle of natural justice. Such order cannot sustain and is accordingly quashed. Before parting with the order, the court is of the considered view that Vice-Chancellor of the University is holding very respectable position in the University and as such he is suppose to be above board and is not expected to swayed by personal bias ill will or prejudice.

From the material available on record, it appears that Vice-Chancellor was summoned by this Hon'ble court and as a counter-blast of the order, summoning the Vice-Chancellor of the University by a Division Bench of this court in MJC No. 676 of 2015 dated 3.11.2017 the Vice-Chancellor has passed the order on 9.11.2017 considering the proximity of the order



passed by the Division Bench in contempt and the order was passed by the Vice-Chancellor immediately thereafter taking note of the MJC indicate that the order was passed not as a fair institutional decision but it was influenced by personal reasons, the Vice-Chancellor holding such high institutional position is expected avoid such action.

Under the statutory scheme if the Vice-Chancellor is satisfied that due to gross mismanagement or financial irregularities a situation has arisen where the continuation of the President or the Secretary of the Governing Body is not in the interest of the College or the University, he may move the Syndicate to remove the President or the Secretary provided that the Vice-Chancellor will give reasonable opportunity to the President or the Secretary as the case may be, to show cause why he should not be removed from office. The decision of the Syndicate shall be final.

Under such circumstances, the court does not find any justification to uphold Annexure-1 because in Clause-10 Statute 32 also the Vice-Chancellor was required to give reasonable opportunity to President and Secretary to show cause why they should not be removed from the post and thereafter, the Vice-Chancellor is required to place the matter before the Syndicate



unfortunately in the instant case no such course was adopted. Under the aforesaid circumstances, the court has reason to believe that action of the Vice-Chancellor is actuated with malice. Such order is unsustainable and definitely such decision comes within the ambit of colourable exercise of power which is impermissible in view of the law laid down by the Constitution Bench of the Apex Court in the case of **D.C. Wadhwa Vs. The State of Bihar & Ors. AIR 1987 SC 579.**

With the aforesaid, the writ petition stands allowed and disposed of.

**(Anil Kumar Upadhyay, J)**

Ravi/-

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