

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15673 of 2013

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Ram Awtar Das @ Ramautar Das, Son of Sri Ram Bholi Das, Resident of Village/ Mohalla- Bagrauli, Police Station- Simri Bakhtiyarpur, District- Saharsa.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
3. Vir Kunwar Singh University, Arrah through its Registrar.
4. Vice Chancellor, Vir Kunwar Singh University, Arrah.
5. Registrar, Vir Kunwar Singh University, Arrah.
6. Principal, H.D. Jain College, Arrah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, advocate.
For the Respondent/s	:	Mr. Amit Bhushan AC to G.P.-17
For the University	:	Arabind Nath Pandey, advocate.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 28-08-2018 1. Heard learned counsel for the petitioner and counsel appearing on behalf of the State as well as University.

2. Learned counsel appearing on behalf of the petitioner submits that after the order of this Court in C.W.J.C. No. 11294 of 2009 dated 29.10.2009 the University has issued notification dated 10.1.2012 and regularized the service of the petitioner but the order of the University was not implemented by the Principal and as such the petitioner filed another writ petition bearing C.W.J.C. No. 12779 of 2012. In the said writ petition the Court passed the following order:-

“If the University has taken a decision



and communicated if to the Principal of a constituent colleges, the later is bound to comply the direction of the University falling which the University is expected to adequately exercise its powers in accordance with law to prevent such errant behaviour.

Let the Vice Chancellor ensure compliance for his own order preferably within a maximum period of four weeks from the date of receipt and / or presentation of a copy of this order.

The writ petition stands disposed.”

3. After the order of the Writ Court in 11279 of 2012 the Principal of the College filed Civil Review No. 367 of 2012. The review petition filed on behalf of the Principal was disposed of on 30.01.2013. The order of review petition is re-produced here for ready reference:-

“This application has been filed to review the order dated 25.7.2012 in C.W.J.C. No. 12779 of 2012.



It is submitted that the petitioner as Principal, was added as respondent No. 6 the same day. He had never refused acceptance of joining submitted by opposite party No.1. Incorrect presentation was made to the Court that he was declining to follow directions of the Vice Chancellor. The Court was therefore, persuaded to observe that any disobedience was required to be rectified by the Vice Chancellor. There was no occasion for this observation.

The Court is of the considered opinion that no observation adverse to the Principal was made in that order. If the petitioner had already complied the direction of the Vice Chancellor as was submitted on his behalf, any observation in that context was superfluous.”

4. After the order of C.W.J.C. No.12279 of 2012 and review order in Civil Review No. 367 of 2012 dated 25.7.2012 and 30.01.2013 respectively the University issued order on 30.5.2013 vide memo No. Legal -171/12-606 whereby the



previous order of regularization of the petitioner was reviewed.

5. Mr. Pramod Kumar learned counsel for the petitioner submits that the University has no power to review the order and as such the order contained in Annexure-12 is without jurisdiction. The law in this regard well settled that in the absence of power of review the University cannot review previous order. Under the aforesaid Act only the Chancellor has power under Section 9 to review the order. It is true that any error committed by the University is always open to correction but in the event when the order was passed in compliance of the order of the High Court, the Court does not approve the action of the respondent contained in Annexure-12. However, the power of Chancellor under Section 9 of the Act is corrective in nature and whenever the chancellor noticed error the chancellor may call for the record and proceeding and calling the record or the proceedings of the University pass any appropriate corrective order. Under the aforesaid circumstance the order contained in Annexure-12 is unsustainable, as such it is quashed. However, quashing of the order will not come in the way of the respondent University to agitate before the Hon'ble Chancellor by invoking jurisdiction of the Hon'ble Chancellor under Section 9 of the Act. In case the University approach the



Hon'ble Chancellor for corrective measures, the office of the Chancellor is required to place the record before the Hon'ble Chancellor for corrective measures in accordance with law.

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

(Anil Kumar Upadhyay, J)

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