

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21237 of 2012

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Meera Srivastava, W/O Mohanjee Srivastava, R/O Shershah Ranja Road Sasaram,
P.S.- Sadar, District- Rohtas

.... Petitioner/s

Versus

1. The Magadh University through its Vice Chancellor, Bodh Gaya, District- Gaya
 2. Registrar, Magadh University, Bodh Gaya, District- Gaya
 3. Financial Controller, Magadh University, Bodh Gaya, District Gaya
 4. Principal, Gaya College, Gaya
 5. Principal Secretary, Human Resources Department, Govt. of Bihar, Patna
- Respondent/s
- =====

Appearance :

For the Petitioner/s :

For the Respondent/s : Mr. RAJEEV KR. SINGH, GP-15

For the Magadh University : Mr. Ritesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 01-11-2018

This matter has been listed under the heading “For Dismissal” on account of the fact that none appeared on behalf of the petitioner on different dates to assist the Court. Even today under the heading “For Dismissal” when the case is called out, no one appeared on behalf of the petitioner.

2. Mr. Ritesh Kumar, learned counsel appearing on behalf of Magadh University took pain to enquiry into the matter from Magadh University and on verification he informed the Court that the concerned file has been transferred by Magadh University to Patliputra University on account of bifurcation of Magadh University and creation of Patliputra University.

3. However, on the basis of pleadings available he has



pointed out that this petitioner, who was appointed in Nalanda Mahila College, Bihar Sharif, which was made constituent in 3rd phase, the claim of absorption of the petitioner was rejected by the Hon'ble Chancellor. Referring to the counter affidavit, he pointed out that at one point of time, the petitioner at her own joined Jubilee College, Bhurkunda, Hazaribagh without any lien and permission from the competent authority and thereafter she returned back and submitted her joining.

4. It appears from the 2nd supplementary affidavit that at the relevant time the petitioner was suffering from Pulmonary Tuberculosis and accordingly she proceeded on medical leave with due permission of the Principal of the College. At the relevant time, the Syndicate of the University has constituted a committee to scrutinized the appointment of the teaching employees of the Nalanda Mahila College, Bihar Sharif and it is claimed that the Committee has noted that the petitioner proceeded on long leave on account of illness and in her place Raj Kumar Singh was appointed.

5. Petitioner's statement in the 2nd supplementary affidavit would further indicate that she was transferred as lecturer in the Indian Ancient and Asian Studies Department of Gaya College, Gaya on sanctioned and vacant post vide letter dated 08.12.1987 and the pay fixation matter of the petitioner pursuant to 6th Pay Revision



Commission was pending at the level of Principal, Gaya College, Gaya, as would be evident from letter dated 03.11.2011.

6. On behalf of Education Department, a counter affidavit has been filed where as usual stand was taken that the State has limited role to play in the matter of Universities and State Government has released adequate fund for payment of salary to teaching and non-teaching employees and rest is the domain of the University.

7. The issue with regard to absorption after taking over of Nalanda Mahila College, Bihar Sharif in 3rd phase is involved in the present writ application. At one point of time, the office of the Hon'ble Chancellor has rejected the claim of the petitioner. However, from different documents, it appears that the University has accommodated the petitioner by way of transfer from one Constituent unit to another constituent unit.

8. On account of information gathered from the counsel appearing on behalf of Magadh University that the relevant record has been transferred to Patliputra University and considering the fact that no one is appearing on behalf of the petitioner to assist the Court, the Court is constrained to dispose of the writ application.

9. In case, the petitioner is still interested in pursuing her case with regard to absorption in the College, liberty shall be



available to the petitioner to file a representation before the Vice-Chancellor, Patliputra University for consideration of her case and if it is found that the petitioner is regularly working in the College in question notwithstanding the rejection of the claim of the petitioner by the Hon’ble Chancellor, the claim of the petitioner may be considered sympathetically in view of the subsequent judgment of the Apex Court in relation to 4th phase constituent College (Dr. Krishna Nand Yadav case) where the Apex Court has approved the report of Justice S. B. Sinha (retired) Commission, which noted that those, who are continuing for several years against the post available having requisite qualification, their cases may be considered for absorption provided the incumbent has requisite qualification for such post at the time of initial appointment.

10. With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.11.2018
Transmission Date	

