

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15788 of 2013

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Dr. Kumar Amrednra S/O Late Lal Deo Rai Resident Of Vill.- Bardiha Turki,
P/O- Bardiha, P.S.- Patepur, Dist.- Vaishali At Hazipur. Presently Posted On
The Post Of Lecturer Of History Department In S.M.R.C.K. College
Samastipur P.S. + Dist.- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. Of Bihar, Patna
3. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga
4. The Registrar, Lalit Narayan Mithila University, Darbhanga
5. The Chairman Of Governing Body Of S.M.R.C.K. College Samastipur
6. The Secretary Of Governing Body Of S.M.R.C.K. College Samastipur, P.S. + Dist. Samastipur
7. Vinay Kumar S/O Of Late Triveni Rai Resident Of Village- Supol, P.O.- Vasudeopure Chandel, P.S. Patori, Dist. Samastipur. Presently Posted As The Incharge Principal, S.M.R.C.K. College Samastipur District Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	
For the State	:	Mr. Vishwambhar Prasad, AC to AAG-5
For LNM University	:	Mr. Ajay Behari Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 05-11-2018

Reliance is made to the order dated 30.10.2018 wherein this Court has noted that the petitioner has lost his interest in pursuing the case. For ready reference the order dated 30.10.2018 is reproduced:

“It appears that the petitioner has lost interest in pursuing the present writ petition. The matter was listed on different dates but no one appeared on behalf of the petitioner. Under the aforesaid circumstances, the matter is adjourned in order to provide one more opportunity.



Put up on 5th November, 2018 under the heading for Dismissal.

In case of non-appearance of the counsel on behalf of the petitioner, the Court will decide the writ petition on the basis of the pleadings available on record.”

The petitioner has filed the present writ petition for a direction to the respondents to appoint the petitioner on the post of Principal, SMRCK College, Samastipur in place of respondent No. 7 as the petitioner is senior to respondent No. 7 and the respondent No. 7 was never recommended by the Bihar College Service Commission nor possessing required qualification.

The writ petition was filed on 14.8.2013 and it was dismissed on 26.8.2014 for want of prosecution. Later on it was restored and when listed for admission no one had appeared on behalf of the petitioner and that is why the Court has directed for listing of the case under the heading “For Dismissal”.

From perusal of the writ petition it appears that there is serious disputed fact with regard to claim and counter claim of the petitioner and respondent No. 7 is involved in this writ petition which cannot be adjudicated in this writ petition. The said dispute can only be adjudicated by a competent Civil Court.

In view of the judgment of the Apex Court in the cases of **Sirsi Municipality vs. Cecelia Kom Francis Tellis :AIR 1973 SC 855** and **Vaish Degree College v. Lakshmi Narain: AIR 1976**



SC 888, the present writ petition is disposed of with liberty to the petitioner to approach the Civil Court for common law remedy and for adjudication of the dispute between the petitioner and respondent No. 7.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.11.2018
Transmission Date	

