

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10779 of 2017

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Akhilesh, S/o Shree Prasad Madhaw, R/o Ujjain Complex, Dak
Banglow Road, P.S.-Kotwali, District-Patna-800001.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. The Director, Higher Education Department, Govt. of Bihar, Patna.
3. The Public Information Officer, Pay Verification Cell, Higher Education Department, Govt. of Bihar, Patna.
4. Magadh University, Bodh Gaya, District-Gaya, through its Registrar.
5. The Vice-Chancellor, Magadh University, Bodh Gaya.
6. The Registrar, Magadh University, Bodh Gaya.
7. The Principal, B.D. College, Mithapur, Patna-800001, Bihar.
8. Dr. Chandravijay Prasad Singh, Associate Professor, Department of Zoology, B.D. College, Mithanpur, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s:Mr. Sunil Kumar Singh, Advocate

For the State :Mr. Priyadarshi Matri Sharan, AC to AAG-15

For the University :Mr. Shivendra Kishore, Sr. Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR



ORAL JUDGMENT & ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date: 24-09-2018

The present petition by way of public interest has been filed for following reliefs :-

(i) For issuance of an appropriate writ/directions commanding the respondents to conduct enquiry by Vigilance or any other agencies for misappropriation of more than crores in making illegal payment to respondent no. 8 by fraudulent means whose name does not included in the list of teachers issued by Magadh University vide letter no. G.S. 1D/228/2009 dated 9.7.2009 for salary payment based on Hon'ble Justice (Retd.) S.C. Agrawal Commission report which was accepted by Hon'ble Supreme Court.

(ii) To command respondents to make enquiry against authorities who have regularized paid salary and grant promotion when the Secretary, Education Department Govt. of Bihar rejected it and there is an order for recovery under Public Demand and the audit team has also upheld this and there is direction of recovery from respondent no. 8 of more than 95 lakhs.

(iii) To grant any other reliefs for which petitioner is found entitled in the facts and circumstances of the case.

2. The petitioner has laid grievance that the Magadh University (in short **the University**) has paid to respondent No. 8, a huge amount by way of salary and other allowances when he was not entitled for the same. He has



also alleged that the University authorities wrongly ignored the objection raised by the Finance Officer of the University and has paid the salary to respondent No. 8.

3. It appears that 40 colleges of the University were taken over by the State Government in the year 1986 including B.D. College, Patna where the respondent No. 8 was employed. The take over of such colleges in the 4th phase, sparked a number of controversies and the matter travelled to Supreme Court. The Supreme Court constituted a Committee of Hon'ble Mr. Justice S.C. Agrawal (Retd.) to determine the genuineness of the claim of the teachers *qua* the number of posts sanctioned by the State of Bihar working in different colleges which were taken over by the State of Bihar in the 4th phase.

4. From the counter affidavit filed on behalf of respondent Nos. 4 to 6, it appears that the Syndicate in its meeting dated 09.07.2017 had directed the Financial Advisor to submit an enquiry report with regard to the appointment of respondent No. 8 and the salary drawn by him and another person. The enquiry report by the Financial Advisor was not accepted by the University on the ground of same being misleading.

5. It has been urged by the University that the case of respondent No. 8 was seen and placed in List-(II) by



Hon'ble Mr. Justice S.C. Agrawal (Retd.) Commission which was constituted to identify the bogus appointees in various affiliated colleges, which were converted into constituent Units in the year 1996. The report of the Hon'ble Mr. Justice S.C. Agrawal (Retd.) Commission was accepted by the Supreme Court and all the objections filed against such reports were rejected. The Supreme Court directed all such teaching and non-teaching staff in various affiliated colleges whose names fell in List-(I), viz., those who were appointed against the sanctioned posts, were directed to be absorbed by the University. Those appointees whose names fell in List-(II), viz., such persons who were appointed against posts for which recommendation was sent by the University to the State before the cut-of-date for sanction were also directed to be regularized.

6. Pursuant to the aforesaid direction of the Supreme Court in Civil Appeal No. 6098 of 1997, which, in turn, was based upon the recommendations of Hon'ble Mr. Justice S.C. Agrawal (Retd.) Commission, the respondent No. 8 was absorbed in the service of University vide M.U. Notification No. VC/Res/169 dated 08.05.2005.

7. Regard being had to the fact that the name of respondent No. 8 fell in List-(II), identified by Hon'ble Mr. Justice S.C. Agrawal (Retd.) Commission and the services of



respondent No. 8 was regularized, this Court is of the view that the respondent Nos. 4 to 6 were justified in ignoring the objection of the Financial Advisor.

8. No good ground has been made out by the writ-petitioner to grant the reliefs prayed for in the present writ petition.

9. The petition is dismissed in *limine*.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

Praveen- II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.09.2018
Transmission Date	N/A

