

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.653 of 2018

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Chandra Mohan Singh, Son of Sri Badri Narayan Singh, Resident of Village-
Lahuar, P.O.- Telhar, P.S.- Mahesi, District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resource Department, Government of Bihar, New Secretariat Building, Bihar.
2. The Vice Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura.
3. The Registrar, B.N. Mandal University, Madhepura.
4. The Finance Officer, B.N. Mandal University, Madhepura.
5. The Principal, S.N.S.R.K.S. College, Saharsa.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Smt. Shilpa Singh -GA12

Smt. Neetu Jha, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 18-07-2018

Heard learned counsel for the petitioner, State and the
University.

2. The petitioner has filed the present writ application
for a direction to the respondents to consider his case for absorption.

3. Mr. Abhay Kumar Singh, learned counsel for the
petitioner submits that the College in question was made constituent
in 4th phase. In the case S. N.S.R.K.S. College, the cut off date was
fixed on 31.03.1987 and as such the petitioner, who was appointed on
23.12.1986 against the vacant post, was entitled to consideration for
absorption and the petitioner was rightly absorbed by the University.
Later on, the University reviewed its notification of absorption. He



further submits that the decision of the respondents reviewing the notification of absorption is nullity, as the University has no jurisdiction to review the previous notification. He submits that in the case of this college, the cut off date is not 30.04.1986, but 31.03.1987, as this College was not made constituent w.e.f. 30.04.1986, but w.e.f. 31.03.1987 by the decision of the Government dated 31.07.1987.

4. The issue with regard to cut off date was considered by the Apex Court in the case of **State of Bihar & Ors. Vs. Bihar Rajya M.S.E.S.K.K. Mahasangh & Ors.**, reported in **(2005) 9 SCC 129**. The Apex Court in para.18 of the aforesaid judgment has noted that there are three different cut off dates for the purpose of take over of the colleges and initially 36 colleges were made constituent w.e.f. 30.04.1986 and other colleges were made constituent vide separate notification of subsequent date.

5. Considering the decision of the Apex Court in **Mahasangh** case (supra) and the discussion made in C.W.J.C. No. 17670 of 2017, the post on which the petitioner was appointed was a vacant post. He was appointed on 23.12.1986 i.e. the before the College was made constituent unit on 31.03.1987.

6. In view of the above, the writ application succeeds. The respondent University is directed to take decision treating the cut off date of the college in question as 31.03.1987 and grant the benefit



of absorption to the petitioner, as he was appointed on 23.12.1986 against sanctioned post i.e. before the date of take over of the college in question on 31.03.1987. Necessary decision as to consequential relief in this regard must be taken within a period of four months from the date of receipt/production of a copy of this order.

7. With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.07.2018
Transmission Date	

