

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18620 of 2017

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1. Bishwanath Prasad Singh, S/o Dwarika Prasad Singh, working as a Store Keeper in the Department of Chemistry, Ram Lakhan Singh Yadav College, Aurangabad at Aurangabad, permanent resident of Village- Kama Bigha, P.S.+ District- Aurangabad.
 2. Phulkeshwar Singh Yadav, S/o Sri Chamari Singh, working as a Store Keeper in the Department of Chemistry, R.L.S.Y. College, Aurangabad.
 3. Shree Bhagwan Singh, S/o Sri Harihar Singh, working as a Store Keeper in the Department of Physics, R.L.S.Y. College, Aurangabad.
 4. Rameshwar Prasad, S/o Kedar Yadav, working as a Lab-in- charge, Department of Psychology in R.L.S.Y. College, Aurangabad.
 5. Kanhaiya Prasad Singh, S/o Sri Ganesh Prasad Singh, working as a Lab-in-charge, Department of Botony in R.L.S.Y. College, Aurangabad.
 6. Satyendra Kumar Yadav, S/o Late Jagdeo Singh Yadav, working as an Assistant in R.L.S.Y. Collee, Aurangabad.
 7. Sheo Bilash Singh, S/o Late Fauzdar Yadav, working as an Assistant in R.L.S.Y. College, Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Higher Education, Govt. of Bihar, Patna.
3. The Magadh University, Bodh Gaya through its Registrar.
4. The Vice Chancellor, Magadh University, Bodh Gaya at Bodh Gaya.
5. The Registrar, Magadh University, Bodh Gaya at Bodh Gaya.
6. The Finance Officer, Magadh University, Bodh Gaya at Bodh Gaya.
7. The Principal, Ram Lakhan Singh Yadav College, Auranagabad at Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinesh Kumar

For the Respondent/s : Mr. JITENDRA KUMAR ROY NO-1 -SC13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 18-07-2018

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

2. Learned counsel appearing on behalf of the petitioners
in this writ application submits that the petitioners were initially



appointed in the affiliated college on non-teaching post. They continued after take over and they were paid salary regularly upto December, 2018, although their names were not included in Letter 25(C) issued by the State Government for provisional absorption. Learned counsel submits that the petitioners were regularly paid salary and decision was taken by the University for absorption, but at the dictate of the State Government, the University has not issued follow up notification of absorption.

3. Considering the fact that the decision of absorption is the domain of the University under Section 4 (1)(14) of the Bihar State Universities Act as held out 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** and the State has no role to play in the matter of taking decision under Section 4 (1)(14) of the Bihar State Universities Act, the writ application is disposed of with a direction to the University to consider the case of the petitioners and if it is found that the petitioners were appointed before the cut off date of take over and if they are regularly working and they have requisite qualification on the date of appointment and if the posts are available, the University will consider the case for absorption of the petitioners and take final decision without being influenced by the direction of the State Government for absorption under Section 4 (1)(14) of the



Bihar State Universities Act.

4. Final decision in this regard must be taken by the respondent University within a period of four months from the date of receipt/production of a copy of this order. The consequential benefit will abide by the final decision of the University.

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

(Anil Kumar Upadhyay, J)

Uday/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.07.2018
Transmission Date	

