

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4891 of 2018

Dr. Hari Narayan Thakur, Son of late Paspat Thakur, Resident of Nagendra Nagar, Lane No. 1, Bela Road, Mithanpura, P.S. Bela, District- Muzaffarpur.
... .. Petitioner/s

Versus

1. The Chancellor of Universities of Bihar, Raj Bhawan, Patna
2. B.R. Ambedkar Bihar University, Muzaffarpur, through its Registrar.
3. The Vice Chancellor, B.R. Ambedkar University, Muzaffarpur.
4. The Registrar, B.R.A. Bihar University, Muzaffarpur.
5. Dr. Om Prakash Singh, Principal, L. N.T. College, Muzaffarpur.
... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava
For the Respondent/s : Mr. Zaki Haider

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

5 27-06-2019 Heard learned counsel for the petitioner and the University.

2. The present writ application has been filed by the petitioner for quashing the order dated 24.02.2018, issued by the Vice Chancellor, B.R.A. Bihar University, Muzaffarpur as contained in Annexure-6

3. From perusal of Annexure-6, it appears that the petitioner was transferred from M.S. College, Motihari to M.J.K. College, Bettiah. Prior to his transfer vide Annexure-6, the petitioner was earlier transferred from S.R.A.P. College, Bara Chaki, East Champaran to M.S. College, Motihari.

4. Mr. Abhinav Srivastava, learned counsel for the petitioner while challenging the legality and validity of



Annexure-6 has referred to the letter issued by the Additional Secretary, Governor Secretariat, Bihar addressed to the Vice-Chancellor of the B.R.A. Bihar University, refers to the letter of the Private Secretary of the Agriculture and Farmer Welfare Minister, Union of India dated 15.12.2017 (Annexure-2). He submits that at the instance of the Minister, Government of India, the office of the Chancellor issued letter to the Vice-Chancellor of the B.R.A. Bihar University and based on the aforesaid letter dated 08.01.2018 the petitioner was transferred vide order dated 24.02.2018. He submits that proximity of the letter dated 08.01.2018 and 24.02.2018 would indicate that the order of transfer of the petitioner from M.S. College, Motihari to M.J.K. College, Bettiah is on political pairvi/at the dictate of the Union Minister.

5. Referring to Annexure-9, learned counsel for the petitioner submits that the Chancellor has issued guideline for the purpose of transfer of a teacher of the College vide letter dated 18.12.2008, which contains the guideline for appropriate decision by the Committee for transfer, which is applicable for all the Universities including B.R.A. Bihar University in the matter of transfer and posting.

6. Annexure-9 contains the details of a Committee comprising of Vice-Chancellor, Pro Vice-Chancellor, senior most Dean, Educationist nominated by the Chancellor, member



of nominated by the State Government, not below the rank of Joint Secretary and Registrar.

7. Mr. Srivastava submits that the matter of transfer and posting was not placed before the Committee supposed to take decision with regard to transfer and posting in terms of Annexure-9, as the premature transfer of the petitioner was made at the behest of Agriculture and Farmer Welfare Minister, Union of India.

8. Learned counsel appearing on behalf of the University submits that in terms of the Act, a Principal is entitled to continue ordinarily for a maximum period of five years and as such there is no legal impediment for transfer before completion of five years. There is no answer to the submission of Mr. Srivastava that the petitioner was transferred in teeth of Annexure-9 and at the behest of Agriculture and Farmer Welfare Minister, Union of India as evident from Annexure-2.

9. Learned counsel for the University with regard to para 10 of the counter affidavit submits that the transfer of the petitioner was made on administrative ground. The aforesaid statement made in para 10 appears to be influenced by Annexure-2.

10. Having regard to the proximity of time, the Annexure-2 appears to be the background of Annexure-6 order



as to transfer and posting at the instance of Minister. The issue of transfer on the recommendation of political person was considered by the Division Bench in the case of **Sri Abdul Muttalib Vs. The State of Bihar & Ors.**, reported in **1985 PLJR 931**. The Division Bench of this Court has considered the various aspect and held out that the transfer on political pairvi is malafide and is not sustainable.

11. In addition thereto the decision at the instance of Governor Secretariat on political pairvi is also unsustainable in view of the judgment of the Apex Court in the case of **Purtabpore Co. Ltd vs Cane Commissioner Of Bihar & Ors**, reported in **AIR 1970 1986**.

12. Considering the totality of the facts situation, the Court finds substance in the submission of learned counsel for the petitioner. Accordingly, the order as contained in Annexure-6 is quashed. The respondents are directed to restore back the petitioner to M.S. College, Motihari.

13. The writ application is, accordingly, allowed and disposed of.

(Anil Kumar Upadhyay, J)

uday/-

U			
---	--	--	--

