

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No. 3060 of 2011

Arising out of

Civil Writ Jurisdiction Case No. 13411 of 2005

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1. Sanjay Kumar, Son of Sri Hari Narayan Yadav, Resident of Village Kalhaipatti, P.S. Murliganj, District Madhepura.
 2. Binod Kumar Yadav, Son of Late Sri Anirudh Prasad Yadav, Resident of Shardavitia, Ward No. 2, P.S. Madhepura, District Madhepura.
 3. Rakesh Kumar Yadav, Son of Late Saryug Prasad Yadav, Resident of Ward No. 1, Madhepura, P.S. Madhepura, District Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr. Anjani Kumar Singh, the Secretary Higher Education Government of Bihar, Patna.
3. Mr. Dr. Arun Kumar, Vice Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura.
4. Mr. Kumaresh Prasad Singh, Registrar, B.N. Mandal University, Laloo Nagar, Madhepura.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mrs. Arpana Kumari, Advocate
For the State	:	Mr. Ramadhar Singh, GP 25
For the BNMU	:	Mr. P. N. Shahi, Sr. Advocate
		Mr. Ritesh Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 27-06-2019

Heard learned counsel for the petitioners; learned AC to GP 25 for the State and Mr. P N Shahi, learned senior counsel along with Mr. Ritesh Kumar, learned counsel for BN Mandal University (hereinafter referred to as the 'University').



2. The petitioners have moved the Court alleging willful and deliberate violation of the order dated 18.05.2011 passed in CWJC No. 13411 of 2005.

3. From the pleadings, it appears that the order was challenged by the University in Letters Patent Appeal No. 1428 of 2011. It further transpires that in the meantime, in the Mega Lok Adalat held on 10.04.2014 by the University itself, it had agreed to allow the petitioners to continue work and also make payment for such work. It also transpires that the said LPA No. 1428 of 2011 was disposed off by order dated 04.01.2018, in view of there being settlement in the Mega Lok Adalat.

4. In the order of the Mega Lok Adalat, there being reference to the order of the writ Court dated 18.05.2011, clearly indicates that the petitioners have chosen to take the route of Mega Lok Adalat and a consented order.

5. In such view of the matter, there cannot be any proceeding for contempt, as, at the instance of the petitioners themselves, the matter has been disposed off in the Mega Lok Adalat of the University.

6. Accordingly, the application stands disposed off.

7. Before parting, the Court feels persuaded to indicate certain developments relating to the entire episode. The petitioners



had claimed wages for the period they had worked and also their continuity in service. The writ Court was inclined to accept such prayer and allowed the writ petition. However, the same was assailed by the University in LPA No. 1428 of 2011.

8. Learned counsel for the State has contended that despite the ultimate burden of having to make payment and other financial liabilities, which is to be borne by the State, no consent was taken by the State, neither for the matter being referred to the Mega Lok Adalat nor did the State consent to such order. It was further submitted that even the LPA filed by the University was not contested.

9. Having regard to the fact that when the State has consistently taken a stand that the post on which the petitioners were working was not sanctioned, which in effect means that the State was not accepting any liability for making payment to the petitioners, based on a purely legal issue that they could not be recognized as employee of the University, as they were not validly appointed and there was no post available for them, this Court can only observe that any order passed behind the back of the State having financial implications, which ultimately is to be borne by the State, mandatorily requires the State to be made party and heard before any such adjudication, even in the Mega Lok Adalat.



Thus, in the tentative view of the Court, the University could not have entered into a compromise by agreeing to accept the position that the petitioners would be allowed to continue and also paid, that too, on humanitarian ground when it is not the ultimate pay master. The University cannot show its humanitarian face at the cost of the fund of the State Government.

10. Since the issue is not before the Court, it would not dwell on it any further. However, the Court would only observe that the State authorities are very much entitled to take steps, in accordance with law, before the appropriate forum on the sole ground of them not being party to the consent order passed in the Mega Lok Adalat, as also on the merits of the matter, which obviously would have to be looked into on its own merits, in accordance with law.

(Ahsanuddin Amanullah, J.)

P. Kumar

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