

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17027 of 2019

=====

Uday Kumar Son of Late Bishram Sharma Resident of House No. 4H/3
Amarnath Mandir Lane, Bahadurpur Colony, P.s. Agamkuan, Town and
District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director Higher Education, Bihar, Patna.
3. Patliputra University Through its Registrar, Patna.
4. The Vice Chancellor Pataliputra University, Patna.
5. The Registrar Pataliputra University, Patna.
6. L.P. Shahi College, Ramkrishna Nagar, Patna, through its Secretary.
7. The Secretary L.P. Shahi College, Ramkrishna Nagar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the University	:	Dr. Anand Kumar, Advocate
		Mr. Bipin Kumar, Advocate
For the State	:	Mr. Jai Prabhat Krishna, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 20-08-2019 Heard learned counsel for the petitioner, learned

counsel for the State as well as learned counsel appearing on

behalf of the University.

The petitioner is aggrieved by the constituting

Governing Body of L.P. Shahi College, Ramkrishna Nagar,

Patna, under the Bihar State University Act, 1976.

Mr. Sanjay Kumar, learned counsel appearing for the

petitioner would submit that, in breach of procedure prescribed

by the Statute, Governing Body was constituted by the



University in the instant case. The procedure followed by the University was not valid in the matter of constituting the Governing Body by the University. Constitution of Governing Body is illegal and arbitrary. The relevant part of the Statute prescribing procedure for constitution of the Governing Body is quoted hereinbelow:

“3.(i) The terms of office of the members of the Governing Body other than teacher-member and University Representative shall be for a period of three years from the date of their election, nomination or corporation, as the case may be, and shall include any further periods not exceeding three months that may elapse between the expiry of their terms and the next election, nomination or co-option. The terms of the officer of the University Representative and teacher member shall be for a period of one academic session:

Provided that term of office of any member other than ex-officio member may be terminated, any time, by the Syndicate on the recommendation of the Vice-Chancellor if the continuance of the member is not in the interest of the college.

(ii) The Principal shall within 21 days of the election or nomination of the members under clauses (ii) to (vi) of sub-section (1) of Section 60 of the Act, as the case may be, convene a meeting to co-opt a member as required under clause (vii) of this sub-section.

(iii) The Principal shall report the name of the member co-opted to the Registrar within seven days of the co-option.

(iv) The Principal shall, with the approval of the Vice-Chancellor and within 21 days of the co-option



of member under article 3 above shall call a meeting of the Governing Body. The Governing Body at its meeting shall elect the following office bearers from amongst its member.

(a) President

(b) Secretary:

Provided that in the case of colleges owned and maintained by Government, the term of office and the manner of election of the office bearers shall be determined by the Government:

Provided further that in case of college established and administered by the minorities based on religion or language or Medical/Engineering college other than those maintained by the Government the term of office and manner of selection of the office-bearers shall be determined by the Syndicate after considering the advice of the sponsors authorities of the college concerned.”

The Court finds substance in the submission of the petitioner that when procedure is prescribed for constitution of Governing Body any other mode of constitution is forbidden by necessary implication.

However, the Court, at the same time, is conscious of the limitation of the Judicial Review, prima facie, the Court is of the view that the present case involves various disrupted questions of fact and as such the present proceeding is not appropriate.

Under the scheme of the Act, the office of Chancellor is competent to take appropriate decision in exercise of power



under Section 9 of Bihar State Universities Act and take appropriate remedial action after summoning the record of the University, as such the writ petition is disposed of with liberty to the petitioner to approach the office of the Chancellor for appropriate redressal of his grievance as per the provisions of the University Act and Statute. The Court request the office of the Chancellor to decide the dispute in exercise of power under Section 9 of the Act at the earliest.

(Anil Kumar Upadhyay, J)

uma/-

U			
---	--	--	--

