

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17037 of 2019

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1. Ashok Kumar Gupta, S/o Kashi Prasad Gupta, Reader, Department of Chemistry, RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, Distt.-Patna-Pin-800020
 2. Sudhanshu Shekhar Singh, S/o Late Sita Ram, at Sadikpur, P.O.- Lohiya Nagar, P.S.- Kankarbagh, Distt.- Patna, At present Professor in Zoology, Sri RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, distt.- Patna
 3. Sudhanshu Shekhar Singh, S/o Satya Narayan Singh, Reader in History RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, Distt.- Patna
 4. Ramji Prasad Sah, S/o Satya Narayan Singh, Reader in History RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, distt.- Patna
 5. Awadhesh Pd. Singh, S/o Ram Chandra Prasad Singh, Reader in History RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, Distt.- Patna
 6. Ramyash Rai, S/o Ram Pravesh Rai, Reader in Economics RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, Distt.- Patna
 7. Dr. Chakradhar Prasad Pandey, S/o Indradeo Pandey, RKD College, P.S.- Kankarbagh, P.O.- Lohiyanagar, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-cum-Principal Secretary Department of Human Resources, Govt. of Bihar, Patna
3. The Magadh University, Bodh Gaya, Distt.- Gaya
4. The Vice Chancellor of Magadh University, Bodh Gaya, Distt.- Gaya
5. The Registrar of Magadh University, Bodh Gaya, Distt.- Gaya
6. The Patliputra University at Patna
7. Vice Chancellor of Patliputra University, Patna
8. The Principal of R.K. Dwarika College, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bhola Prasad No.1
For the Respondent/s	:	Mr.Prabhat Ranjan Singh, AC to AAG-15
For Magadh University	:	Mr. Ritesh Kumar, Advocate
For the P P. University	:	Mr. Anand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 22-08-2019 Seven petitioners have filed the present writ
application for a direction to the respondents to shift back their



date of absorption and consequently the date of promotion as Reader.

Learned counsel for the petitioners submits that the College, in question, was taken over as constituent in 4th Phase. The dispute as to absorption of teaching and non-teaching employee of 4th phase of constituent college was taken to 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 constituted Justice SC Agrawal Commission for factual enquiry involved in the case. Justice Agrawal Commission after marathon exercise submitted voluminous report, which was accepted in toto in the case of Mahasangh case (supra) and following that decision, the University issued notification.

The only objection in this case is that the date of absorption and grant of promotion to the petitioners was revised by the State Government Auditor. It has been held out in the numerous cases that the Auditor of the State Government has absolutely no jurisdiction in the matter of either pay fixation or determination of grant of promotion and consequential benefits.

This Court has occasion to decide the similar issue where the date of absorption was shifted by the University



contrary to the date of absorption determined by the Justice SC Agrawal Commission. This Court has held out that the report of Justice SC Agrawal Commission has the approval of the Apex Court and as such neither the University nor the State has any jurisdiction to tinker with finding recorded by the Justice SC Agrawal Commission.

In view of the above, the writ petition is allowed. The respondents are directed to strictly adhere the date of absorption determined by the Justice SC Agrawal Commission and rectify its mistake shifting back the date of absorption and grant of consequential promotion as Reader from the basis of date of absorption fixed by Justice SC Agrawal Commission.

Necessary corrective measures may be taken by the respondents within a maximum period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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