

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20754 of 2020

Arising Out of PS. Case No.-73 Year-2019 Thana- MAGADH UNIVERSITY District- Gaya

1. Birendra Kumar Son of Late Jairam Sharma Resident of B-9 Vaishali Complex Road No.3 Chanakyapuri Colony, P.S.-Rampur, District-Gaya.
2. Manoranjan Kumar Singh Son of Late Lalan Prasad Singh Resident of Kamlalya Magadh Colony Road No.2 P.S.-Magadh Medical College, District-Gaya.
3. Birendra Kumar Singh Son of Late Gaya Prasad Singh Resident of Village-Rahimpur Karon, P.S.-Amnaur, District-Chhapra.
4. Nalin Kumar Shastri Son of Late Dr. N.L. Shastri Resident of Quarter No.11 Magadh University, P.S.-Magadh University, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Shivendra Prasad

For the Opposite Party/s : Mr.Satyendra Prasad

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 11-09-2020 The matter has been taken up through virtual Court proceeding.

Since the court proceeding is non-functional in physical mode due to the present pandemic COVID-19, the matter is listed with defects.

Learned counsel for the petitioners undertakes to remove the defects within three weeks of the resumption of the physical Court proceedings.

In case of non-removal of the defects, the



office shall place the matter before the bench.

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

The petitioners are apprehending their arrest in a case registered for the offences punishable under Sections 406, 409, 420, 467, 468, 471, 120(B) of the Indian Penal Code, 1860.

The prosecution case as per the written report of the Proctor of the Magadh University submitted to the S.H.O, Magadh University Police Station on 30.07.2019 is to the effect that the proposal for affiliation of Siya Balmiki Evening College, Gitanagar, Nawada was received to the University on 10.10.2018 by the Two Members Committee of the Syndicate. Accordingly, six different committees were constituted on different dates who submitted their reports in respect of affiliation of the said college. It is alleged that petitioners are members of one of the committees. Subsequently, the reports were placed before the college affiliation



committee and then to Academic Council, Senate and then to the syndicate, the Apex body of the University for its scrutiny and analysis of the contents and averments made in the inspection report. On the basis of last enquiry report dated 16.11.2018, the Syndicate of the University decided to grant permanent affiliation to the said college for the Session 2017-18 vide letter no. 22.12.2017 and the said proposal was forwarded to the Education Department of the Government of Bihar but the Government of Bihar refused the proposal of the Syndicate of the University on 23.07.2018. It is further submitted that against the order of the Government of Bihar, the college in question preferred C.W.J.C. No. 20385 of 2018 before this Court. Considering the fact that an evening college can be started only for the benefit of the office employees and other wage earners at such places, as may be defined by the Syndicate, is the requirement under Article 15 of the Statute relating to admission and exclusion of college other than those



managed and maintained by the University, this Court *prima facie* found that right from the inspection of the college till the second approval of the government, the approval appeared to be tainted and hence, Principal Secretary, Education Department, Government of Bihar was directed to conduct an enquiry as under which circumstances the University came to a conclusion that permanent affiliation should be granted in favour of the college in question. The Principal Secretary, upon enquiry found that the decision to grant affiliation in favour of the college was taken fraudulently. Consequently, a criminal case has been registered against the erring officials of the University including the petitioners, being members of one of the inspection teams.

It is submitted by learned counsel for the petitioners that on the basis of several recommendations by several committees consisting of different persons, the petitioners being members of one of the committees,



recommended for permanent affiliation of the said college before the college affiliation committee and then to Academic Council, Senate and which proceeded to the Syndicate, the Apex Body of the University for its scrutiny and analysis of the contents on the basis of the averments made in the inspection report. Altogether five inspection reports were submitted earlier but neither any objection was raised nor any enquiry was ordered by the University and when the refusal for grant of permanent affiliation of the college in question by the Government of Bihar was challenged in the writ petition, the issue was given a different getup. Moreover, similarly situated co-accused persons namely Krishnadeo Prasad Verma, Devendra Prasad, Sushil Kumar and Saroj Kumar have been granted bail by a Co-ordinate bench of this Court vide order dated 20.07.2020 passed in Cr. Misc. No. 21865 of 2020.

Learned counsel for the State submits that on 10.10.2018, the application for granting affiliation to the



Siya Balmiki Evening College was received to the University by the Two Members Committee. Accordingly different committees were constituted on different dates and on the basis of last enquiry dated 16.11.2018, the Syndicate of the University decided to grant permanent affiliation of the college and sent the proposal to the State Government which was rejected by the State Government.

Considering the fact that altogether six reports were submitted for grant of affiliation of college and thereafter it was scrutinized at various levels of the University and then by the Government and ultimately, the Government rejected the application though not on the ground on which the present prosecution has been made, other co-accused persons with similar accusation have been granted bail, the petitioners are not having any criminal antecedent and since petitioners are teachers and there is no likelihood of their absconding, let the petitioners, above named, in the event of their



arrest or surrender before the Court below within a period of six weeks, be released on provisional anticipatory bail for a period of three months on furnishing one surety to the satisfaction of learned Additional Chief Judicial Magistrate, IX, Gaya in connection with M.U. P.S. Case No. 73 of 2019, subject to the conditions as laid down under Section 438(2) Cr.P.C.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs. 10,000/-(ten thousands) with two sureties of the like



amount each to the satisfaction of learned Additional Chief Judicial Magistrate, IX, Gaya in connection with M.U P.S. Case No. 73 of 2019 including one surety given at the time of provisional bail.

The learned Court below will be at liberty to further extend the period of provisional bail if the Court proceeding in physical mode will not resume in next three months.

Accordingly the present application stands disposed of.

(Dinesh Kumar Singh, J)

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