

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.789 of 2016

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1. Ram Kumar Mishra son of Late Kalicharan Mishra, resident of Mohalla Bhikhanpur, Gumti No.3, Police Station Kotwali, in the District of Bhagalpur.

..... Appellant/s

Versus

1. The State of Bihar through its Secretary, Department of Higher Education.
2. The Tilka Manjhi Bhagalpur University through its Registrar.
3. The Vice Chancellor, The Tilka Manjhi Bhagalpur University.
4. The Registrar, Tilka Manjhi Bhagalpur University.
5. The Principal, T.N.B. Law College, Bhagalpur.

..... Respondent/s

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Appearance :

For the Appellant/s : Mr. Gopal Prasad Roy, Advocate
For the Respondent/s : Mr. K.K. Jha, AAG-8
For the University : Mr. Shailendra Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 21-08-2017

We are of the considered view that once in pursuance of the order passed by this Court, Annexure 5 dated 23.4.2008 in C.W.J.C. No.11417 of 2005 and after examining the claim of the petitioner in the light of the aforesaid order, when the Vice Chancellor of the University in question has passed the following order:

“The claim of the petitioner for the period before 30.04.1986, the date of taking over the College, is not admissible.



Thereafter the period till 1996 is a matter subjudice with the vigilance enquiry and records are with them hence the said period is kept in abeyance. From 1997 till 2008 the admissible arrear salary, subject to verification and certification of the College, and submission of the claim by the College and subsequent release of the fund thereof from the State Government, may be admissible without interest. The College may be apprised of the facts and asked to submit the claim and upon receipt of the same that may be sent to the Government for release of fund. Accordingly, the representation is disposed of.”

The respondent State Government is duty bound to decide the claim of the petitioner with regard to admissible arrears of salary payable for the period 1997 till 2008 for which funds have to be provided by the State Government and amount paid.

Keeping in view the aforesaid, the University cannot now take a plea contrary to the order passed by the Vice Chancellor on 16.3.2009. The order passed by the Vice Chancellor is binding both on the University and the State Government until and unless they have challenged it in accordance with. They having not done so, are bound to implement the order passed. The State Government cannot now say that because the papers are not available and they are seized in a Vigilance Case, they are unable to implement the order of the Vice Chancellor.

The State Government to procure the documents from



the Vigilance Department and implement the order of the Vice Chancellor and submit a report to this Court within a period of four weeks.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

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