

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11573 of 2018

Dr. Md. Alamgir, S/o Late Tauheer Hasan, R/o Minhaj Nagar, Opposite Imarat
Sharia, Phulwarisharif, P.S.- Phulwarisharif, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar
2. The Chancellor of the Universities, Bihar Raj Bhawan, Patna
3. Patna University, Patna, through its Registrar
4. Vice Chancellor, Patna University, Patna
5. Registrar, Patna University, Patna

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Advocate
For the State	:	Mr.Subhash Chandra Mishra- SC-16
For the University	:	Mr. Manish Dhari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 06-07-2020

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Patna
University through virtual Court proceeding.

In this case, an Interlocutory Application viz. I.A.
No.7596 of 2018 has been filed by the petitioner, whereby and
whereunder he has challenged the order of punishment passed
by the Vice Chancellor of Patna University by submitting that
the punishment is beyond the jurisdiction as the nature of
punishment is for stoppage of promotion during the rest of the
service period, so it is *de hors* to the provisions of Service
Statutes. It has further been submitted that Article 18 of the
Service Statutes provides that promotion and increment can be
withheld by way of punishment for a specific period but, in the



present case no specific period has been specified, so the order of punishment itself is beyond the scope of the Service Statutes. It has also been submitted that the proceeding has been initiated at the instance of the Hon'ble Chancellor and the petitioner has all apprehensions that the Hon'ble Chancellor would be swayed away by the earlier enquiry report submitted during the period of previous Hon'ble Chancellor.

Learned counsel for the University submits that the preliminary enquiry was the basis for the initiation of proceeding and it cannot cause any prejudice to the petitioner as the present Hon'ble Chancellor will look into the matter with fresh mind maintaining impartiality. He further submits that when there is a provision of appeal the petitioner should exhaust the remedy of appeal and if the order is passed against him, then only he can challenge the same before this Court.

Having considered the rival contentions of the parties, it appears that Article-10(4) gives general power to examine the order passed by the Vice Chancellor and redress the grievances accordingly. As there is a remedy of appeal against the order of the Vice Chancellor but, the petitioner instead of exhausting the remedy of appeal has directly approached this Court.



In such view of the matter, this Court directs the petitioner to file an Appeal before the Hon'ble Chancellor against the impugned order of punishment passed by the Vice Chancellor. This Court hopes and trusts that if an appeal is filed by the petitioner, the Hon'ble Chancellor will look into the matter and decide the same without being influenced by the earlier inquiry report and on the basis of materials placed by the parties. This Court requests the Hon'ble Chancellor that if such an appeal is filed, the same may be disposed of at the earliest preferably within a period of six months from the date of filing of appeal by the petitioner.

With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	10.07.2020
Transmission Date	N/A.

