

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 5334 of 2010**

D.V. Satyeswar, S/o Shri Rama Rao, Aged about 49 years, R/o G-37, Krishak Nagar, Indira Gandhi Krishi Vishwavidyalaya Colony, Krishak Nagar, Raipur, Chhattisgarh.

---Petitioner

Versus

1. Indira Gandhi Krishi Vishwavidyalaya, Through its Registrar, Krishak Nagar, Raipur, Chhattisgarh.
2. Chairman to Board of Management, Indira Gandhi Krishi Vishwavidyalaya, Krishak Nagar, Raipur, Chhattisgarh.

--- Respondents

For Petitioner	:-	Mr. Vinod Deshmukh, Advocate
For Respondents	:-	None
As Amicus Curiae	:-	Mr. Sunil Otwani, Addl. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board (Through Video Conferencing)

11/08/2021

1. Petitioner herein has called in question the legality, validity and correctness of order dated 10/09/2010 (Annexure P/1) passed by respondent No. 1 by which the order of petitioner's promotion dated 30/06/2005 (Annexure P/2) on the

post of Assistant Registrar has been cancelled/annulled.

2. Petitioner joined the respondent University in the year 1985 on the post of Junior Stenographer and then by order dated 30/06/2005 (Annexure P/2), he was promoted on the post of Assistant Registrar as per the rules applicable in Jawaharlal Nehru Krishi Vishwavidyalaya adopted by the respondent University on 10/01/2005 (Annexure P/4). Thereafter, a complaint was made against the petitioner to the Hon'ble Chancellor of the University and an enquiry was conducted as directed by the Hon'ble Chancellor of the University and ultimately, the impugned order dated 10/09/2010 (Annexure P/1) has been passed cancelling petitioner's promotion on the post of Assistant Registrar.

3. Return has been filed by the respondents justifying the impugned order cancelling the promotion of petitioner on the post of Assistant Registrar stating inter alia that in the fact finding enquiry, petitioner has been called to appear and file reply and after he has appeared and filed reply, the impugned order has been passed.

4. Mr. Vinod Deshmukh, learned counsel for the petitioner, would submit that though petitioner has been allowed to participate in the fact finding enquiry conducted by the State Government, but the State Government submitted its report to the Hon'ble Chancellor of the respondent University on 30/07/2010 (Annexure R/5) and thereafter, the Honb'le Chancellor by order dated 27/08/2010 (Annexure R/6) communicated his view to the Board of University constituted under Section 26 of Indira Gandhi Krishi Vishwavidyalay Adhiniyam, 1987 and accordingly, the Board of University by impugned order dated 10/09/2010 (Annexure P/1) took the decision of annulling the order of petitioner's promotion on the post of Assistant Registrar. He would also submit that while accepting the report of the Hon'ble Chancellor and annulling the order of petitioner's promotion, the respondent University has not given any opportunity of hearing to the petitioner which is contrary to the decision rendered by the Supreme Court in the matter of **Prakash Ratan Sinha v. State of Bihar**¹, as such, the impugned order deserves to be set aside.

¹ (2009) 14 SCC 690

5. None appeared on behalf of the respondents though they have filed vakalatnama, therefore, this Court has appointed Mr. Sunil Otwani as Amicus Curiae to assist the Court.
6. Mr. Sunil Otwani, learned Amicus Curiae, would submit that the power is vested with the Chancellor under Section 10(2) of the Act of 1987 to call an enquiry to be made of the matter engaged with the University, but in the instant case, the State Government conducted the enquiry and thereafter, Honb'le Chancellor communicated his view to the Board of University under Section 10(2) of the Act of 1987 and then the University proceeded in accordance with law.
7. I have heard learned counsel for the petitioner and learned Amicus Curiae and perused the record with utmost circumspection.
8. It is not in dispute that petitioner was promoted on the post of Assistant Registrar by order dated 30/06/2005 (Annexure P/2) but on the basis of a complaint, the Hon'ble Chancellor of the University under Section 10(1) of the Act of 1987 enquired the matter and after enquiry by order dated 27/08/2010 (Annexure R/6) communicated his view to the Board of University for cancelling

the promotion of the petitioner and vide impugned order dated 10/09/2010 (Annexure P/2) his appointment on the post of Assistant Registrar has been cancelled.

9. The view expressed by Hon'ble Chancellor of the University on 27/08/2010 (Annexure R/6) states as under :-

“श्री डी. व्ही. सत्येश्वर, सहायक कुलसचिव को इंदिरा गाँधी कृषि विश्वविद्यालय द्वारा जारी आदेश पृष्ठां . क्रमांक / स्था. -1/64 (सी) /2005/3773, दिनांक 30.06.2005 को निरस्त करते हुए श्री सत्येश्वर, सहायक कुलसचिव के पद पर पदोन्नति आदेश को भी निरस्त किया जाय एवं पदोन्नति आदेश के फलस्वरूप प्राप्त अधिक वेतन राशि उनसे वसूल किया जाय ”

10. Acting upon the aforesaid view of the Hon'ble Chancellor under Section 10(2) of the Act of 1987, the matter was taken up by the Board of the University and vide impugned order dated 10/09/2010 (Annexure P/1) petitioner's order of promotion dated 30/06/2005 (Annexure P/2) on the post of Assistant Registrar has been cancelled/annulled.

11. At this stage, it would be appropriate to notice Sub-sections (1) and (2) of Section 10 of the Act of 1987, which states as under :-

“10. Inspection or inquiry of University. -
 (1) The Chancellor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University generally and other matters particularly such as its buildings,

laboratories, libraries, museums. Agricultural Research Stations and farms, workshops and equipment and of any college or hostel, maintained by the University, of the teaching and other work conducted by the University or any college or institution and of the conduct of examinations held by the University and to cause an inquiry to be made of any matter connected with the University :

Provided that the Chancellor shall, in every case, give notice to the University of its intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(2) Such person or persons shall report to the Chancellor the result of such inspection or enquiry, and the Chancellor shall communicate to the Board his views with reference to the results of such inspection or enquiry. The Board shall thereupon take appropriate action as may be directed by the Chancellor."

12. Reverting to the facts of the case, it is quite vivid that upon receiving the enquiry report dated 30/07/2010 (Annexure R/5) of the fact finding enquiry conducted by the State Government, Hon'ble Chancellor of the University has agreed with the enquiry report and conveyed his view to the Board of University constituted Section 26 of the Act of 1987 vide order dated 27/08/2010 (Annexure R/6) that petitioner's order of promotion (Annexure P/2) be cancelled. Thereafter, the Board of University placed the matter before the Managing Committee, constituted under Section 26(2) of the Act of 1987, who vide

impugned order dated 10/09/2010 (Annexure P/1) accepted the view of the Hon'ble Chancellor and cancelled/annulled petitioner's order of promotion dated 30/06/2005 (Annexure P/2) on the post of Assistant Registrar.

13. In the considered opinion of this Court, once the Hon'ble Chancellor of the University has communicated his view to the Board of University under Section 10(2) of the Act of 1987 and if the Board of the University was of the view that the promotion of the petitioner on the post of Assistant Registrar is to be withdrawn, reasonable opportunity of hearing ought to have been afforded to the petitioner as per the statute enacted under the Act of 1987 and after hearing the petitioner and after taking the reply filed by the petitioner (if any), the respondent University could have proceeded to pass the appropriate order, but the respondent University fell into grave legal error in considering the view of the Hon'ble Chancellor dated 27/08/2010 (Annexure R/6) as an order and annulled the promotion of the petitioner by taking the view of the Chancellor as a mandatory direction, whereas the letter dated 27/08/2010 (Annexure R/6)

clearly indicates that it was only the view of the Hon'ble Chancellor communicated under Section 10(2) of the Act of 1987. As such, the University could have proceeded further to hear the petitioner by affording reasonable opportunity of hearing to him and thereafter, it could have taken the decision with regard to cancellation of petitioner's promotion on the post of Assistant Registrar. In this regard, the decision rendered by the Supreme Court in **Prakash Ratan Sinha** (supra) may be noticed herein profitably, which states as under :-

"9. The respondent is an instrumentality of the State, and therefore, all its administrative decisions would be subject to the doctrine of equality and fair play, as incorporated in Articles 14 and 21 of the Constitution of India. If any of its actions or administrative decisions result in civil consequences, the actions or decisions could be judicially reviewed or tested on the anvil of principles of natural justice. This principle of law has been laid down by this Court in catena of cases.

10. In *Canara Bank and Others Vs. Debasis Das*² this Court has held in para 19 that:

"19..... Even an administrative order which involves civil consequences must be consistent with the rules of natural justice."

This Court has elaborated the expression "civil consequence" by observing that (Debasis Das Case) it

"encompasses infraction of not merely property or personal rights but of civil liberties, material deprivations and non-pecuniary damages."

This Court has further stated, that, in its wide umbrella comes everything that affects a citizen in civil life."

11. The decision complained against in the instant case is an administrative decision. The decision is likely to have far reaching civil consequences for the appellant, as it has adversely affected his right to continue in the promotional post. Therefore, in our view, the decision concerning the promotion makes itself available for scrutiny by the Courts on the touchstone of well-established principles of natural justice. The decision that was questioned before the Court was an administrative decision having civil consequences and is alleged to have been taken without affording an opportunity of hearing to the appellant.

12. The argument of the learned Counsel for the appellant, basically is that, the administrative decision taken by the respondents is unfair, unreasonable and in breach of principles of natural justice. The administrative decision taken by the respondents is within the realm of public law and therefore, the decision ought to have been taken in a fair and reasonable manner. This was more necessary because the action cancelling the promotion of the appellant had civil consequences in the sense that it not only puts an end to the right of the appellant and also his further career prospectus. Therefore, the respondents are under an obligation to take all decisions in a fair and lawful manner by adhering to the rules of natural justice.

13. The law in this regard has been settled by several decisions of this Court. The principle that emerge from the decisions of this Court is that, if there is a power to decide and decide detrimentally to the prejudice of a person, duty to act

judicially is implicit in exercise of such a power and that the rule of natural justice operates in areas not covered by any law validly made."

14. Finally reverting to the facts of the case in light of the aforesaid principle of law, it is quite vivid that though the petitioner was promoted on the post of Assistant Registrar by the competent authority but the respondent University, while accepting the view of the Hon'ble Chancellor under Section 10(2) of the Act of 1987, did not afford reasonable opportunity of hearing to the petitioner before annulling his order of promotion which is in violation of principles of natural justice as annulling petitioner's order of promotion involves drastic consequence and it must be in consonance with the principles of natural justice as held by the Supreme Court in **Prakash Ratan Sinha** (supra).

15. As a fallout and consequence of the aforesaid discussion, the impugned order dated 10/09/2010 (Annexure P/1) passed by respondent No. 1 University cancelling/annulling petitioner's order of promotion dated 30/06/2005 (Annexure P/2) is hereby quashed. This Court appreciates the assistance rendered by Mr. Sunil Otvani on such short notice.

16. Accordingly, the instant writ petition is allowed
to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet