

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.648 of 2018

Arising out of

Civil Writ Jurisdiction Case No.588 of 2018

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Maulana Mazharul Haque Arabic And Persian University, Patna through its
Registrar, 34, Ali Imam Path, Harding Road, Patna

... .. Appellant/s

Versus

1. Kamlesh Kumar, son of Shri Ratan Kumar, Resident of 3/A, Aakriti Pranjali Apartment, Lane No. 15, S.K. Puram, R.P.S. More, Arya Samaj Mandir Road, Danapur, P.S.-Danapur, District-Patna.
2. Pankaj Kumar, Son of Shri Chandra Kumar, Resident of Village Post-Rajpur, P.S.-Madhepura, District-Mahepura
3. Sultan Shahid Shah, Son of Syed Mohammad Shah, Resident of Shah Residence, Dr. Mahmood Shah Lane, Dariyapur Gola, P.O.-Bankipore, P.S.-Pirbahore, District-Patna.
4. Niyaz Ahmad, Son of Aash Ahmad, resident of New Millat Colony, Sector-03, Phulwari Sharif, P.O. P.S.-Phulwarisharif, District-Patna.
5. Dr. Syed Nazre Ali, Son of Syed Ali Nawab, resident of Fauzdari Kuan, Magalpura, Patna City, District-Patna.
6. The State of Bihar through the Principal Secretary, Education Department, Bihar, Patna.
7. The Chancellor of Universities of Bihar, Raj Bhawan, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rashid Izhar, Advocate
For the State : Ms. Abhanjalli, AC to GA 12
For the respondents no. 1 to 5 : Mr. Abhinav Shrivastava, Advocate
For the Chancellor : Mr. Rana Vikram Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)



Date : 20-12-2022

Heard Mr. Rashid Izhar, learned counsel for the appellant; Ms. Abhanjalli, learned AC to GA 12 for the State; Mr. Rana Vikram Singh, learned counsel for the Hon'ble Chancellor of Universities and Mr. Abhinav Shrivastava, learned counsel for the respondents no. 1 to 5- writ petitioners.

2. The appellant has moved the Court being aggrieved by the judgment dated 30.03.2018 passed in CWJC No. 588 of 2018 by which the writ petition was allowed and the action of the University terminating the services of the writ petitioners-respondents no. 1 to 5 was held to be arbitrary and contrary to law and accordingly was quashed. Further the writ petitioners were deemed to have been reinstated with all consequential benefits.

3. In the supplementary counter affidavit filed on behalf of the respondent no. 6, copy the final report dated 02.12.2022 of the Committee constituted to look into the matter of appointment of non-teaching employees of the appellant-University, headed by the Director, Higher Education, has been brought on record in which it has been found that 20 persons out of the 40 persons appointed are free from any controversy



and it has been recommended that approval may be granted to those 20 undisputed appointments. Further approval is recommended also for 9 appointments in the given circumstances whose age was more than what is prescribed. Also 3 appointments out of 13 made on unsanctioned posts have been recommended to be granted approval on the ground that by resolution no. 429 dated 4.3.2014, 13 clerical cadre posts were rechristened as Lower Division Clerk and 5 out of the rest 10 being the subject-matter of the present appeal, were also recommended to be granted approval subject to the decision in the present appeal and with regard to the rest 5, excluding the writ petitioners, recommendation is in similar terms.

4. Learned counsel for the State on a specific query submits that no adverse observation or finding has been given against the appointment of all such 40 persons, including the writ petitioners-respondents no. 1 to 5. It was further clarified by learned State counsel that the matter is pending at the highest level for formal approval which is expected shortly.

5. Having regard to the aforesaid, learned counsel for the respondents no. 1 to 5 – writ petitioners submits that now there can be no justification for the appellant-University to maintain



the present appeal as initially they had appointed the 40 persons and later also recommendation was sent by them to the Government informing of the same which was never objected and only because of the direction from the Hon'ble Chancellor of Universities, the present appeal has been filed and now under the circumstances when the Committee headed by the Director, Higher Education has found the appointments not to be illegal and fit to be ratified and the matter is only pending formal approval at the highest executive level, the Letters Patent Appeal be dismissed with the direction to take the exercise to its logical conclusion within a fixed period.

6. Having considered the facts and circumstances of the case, submission of learned counsel for the parties, the materials on record and taking an overall view in the matter, the Court finds substance in the contentions of learned counsel for the writ petitioners- respondents no. 1 to 5 and finds no ground to interfere in the impugned judgment.

7. Accordingly the appeal stands dismissed with a direction to the authorities to take to its logical conclusion the recommendation of the Committee dated 02.12.2022 expeditiously and latest within a period of one month from today. Further, the directions issued by the learned Single Judge



in the writ petition be implemented by the appellant-University
within one month thereafter.

(Ahsanuddin Amanullah, J)

saaurabhkr/-

(Sunil Dutta Mishra, J)

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CAV DATE	
Uploading Date	
Transmission Date	

