

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15463 of 2022

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Shyam Lal Yadav S/o Late Lakhan Yadav Resident of Village- Noorchak,
P.S.- Bisfi, Distt.- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna.
2. Additional Director General, (Investigation Cell) State Vigilance Bureau, Bihar, Patna.
3. The Vice- Chancellor, L.N. Mithila University, Kameshwar Nagar, Darbhanga.
4. The Registrar, L.N. Mithila University, Kameshwar Nagar, Darbhanga.
5. Gaya Prasad Yadav, S/o- Late Bhogi Lal Yadav Resident of presently Road No.- 1 Extension Raj Banshi Nagar, P.S.- Shastri Nagar, Town and Distt.- Patna (Permanently resident of Village- Pauni, P.S.- Madhepur, Distt.- Madhubani, Secretary of Govn. Body of Dev Narayan College of L.N. Mithila University, Darbhanga.
6. Chandra Shekhar Prasad, Principal Incharge of Dev Narayan Yadav College at Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Namrata Mishra, Advocate Mr. Md. Kamran, Advocate Mr. Chhote Lal Mishra, Advocate
For the Respondent/s	:	Mrs. Shilpa Singh, GA-12 Mr. Md. Nadim Seraj, Advocate Mr. Arvind Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

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Date : 11-11-2022



Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s):-

- A. For issuance of an appropriate writ in the nature of **Mandamus** directing the respondents (no - 3 & 4), the Vice Chancellor and the Registrar of L.N Mithila University, Darbhanga to immediately act upon the Audit inspection report of Audit team of Principal Accountant General, Bihar (one of the respondent of earlier CWJC petition no - 3512/2020) remove both the private respondents herein Mr. Gaya Prasad Yadav and Mr Chandshekhar Parsad (a fraudulently appointed teacher) from the college debarring/dissolving the managing committee also constituted under the statutory provisions of statute 32 of the Bihar University Laws as well as realise the defalcated amount of the college (the public money spent illegally, fraudulently) under the appropriate provisions of law after lodging an FIR etc.
- B. For issuance of an appropriate writ/order direction/commands in the nature of **Mandamus** directing the respondent University to obtain the original documents (gift deed) of entire landed property of the said college i.e, DNY college



Madhubani from the possession of Mr Gaya Parsad Yadav and get it registered in the name of Honble Governor of Bihar (as per report, pg - 14, Col.5 of the Audit team of A/G Bihar pursuant to order & observation of Hon'ble court in earlier writ application no-3512/20 as(Ann-1) the landed property of the college amounting to 16 bigha, 6 Katha 29 dhur has been confiscated by Mr Gaya Parsad Yadav and the documents were not shown to the Audit team excusing that later on they will be provided the same, however the Audit team went there on several occasions.

- C. For issuance of an appropriate writ/order/direction/commands in the nature of **Mandamus** directing the respondent University to reinstate/post the illegally removed a lawful appointed principal by the erstwhile college service commission and duly approved by the university namely Mr Umesh Kumar Yadav and other regular appointed staffs who were arbitrarily removed by the managing committee led by Mr Gaya Parsad



without undergoing any Departmental enquiry in the eye of law in terms of several decisions of this Hon'ble court as well as Hon'ble supreme Court vide-PLJR -2003(1)282, CWJC.No-45/2001 dt-20/12/02,Arbind kr. pandey v/s Kameshwar singh sanskrit university,Darbhangga

- D. For issuance of an appropriate writ/order/ direction/commands in the nature of **Mandamus** directing the university to the debar/ remove both the persons of said college immediately and constitute a fresh 'de-novo' Managing committee in the eye of law declaring the other donor member likewise Mr Uma Kant Yadav or other, if any , as secretary to the college in the eye of law as per the report of Audit team (pg no- 13,col.4 of Annexure 2) Mr Uma Kant Yadav, a donor member of the college was never given chance, neither was declared a donor member through giving his name in news paper at the instance of Mr Gaya Parsad Yadav who considered the college & its property ,as if, his ancestral property.



E. For issuance of an appropriate writ/order/direction/commands in the nature of **Mandamus** directing the respondent ADG State vigilance Bureau Bihar to comply with the order of Hon'ble Court as well as acting upon the report of Audit team of AG Bihar or upon thyself report (not given as yet pursuant to order of Hon'ble Court in CWJC no - 3512/2020 dated - 18/12/20) book the ' duo ' Mr Gaya Parsad & Chandrashekhar Parsad as they are doing public duty having a public servant fraudulently and illegally (looting the public money since long) under the provisions of Preventions of Corruption Act-1986 & Amending Act of 2018, vide definition of public servant under Central Government Act (section-21 IPC) reads as Clause Ninth "every officer whose duty it is, as such officer, who takes, receive, keep or spend any property on behalf of [the government], or to make any survey assessment or contract on behalf of [the government], or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interest of [the government], or to



make, authenticate or keep any document relating to the pecuniary interest of [the government], or to prevent the infraction of any law for the protection of the pecuniary interest of [the government]," Similarly, Clause Twelfth - says that "every person in the service or pay of [the government], or remunerated by the fees or commission for the performance of any public duty by [the government]" and so on and so forth.

- F. For issuance of an appropriate writ/order/direction/commands in the nature of **Quo-Warranto** to the private respondents Mr Gaya Parsad & Chand Shekhar Parsad who are the public servants, doing public duty under the *statutory provisions* of law and 'duo' sailing in same boat are **Karta-Dharta** of Managing Committee of the said college and do whatever they like for their choice and there are serious charges of defalcation, loot of public money/government money, public property/public landed property/government property, usurping the



post of Dr. Birendra Kumar, Asst. Professor (zoology) by tampering the record of the college and the university and for that he went on running from pillar to post (now deceased) as per the several enquiry reports of the university and the report of Audit inspection team of AG Bihar in pursuance of direction and observation of Hon'ble Court in earlier CWJC no - 3512/2020 (Annexed herein as Annexure - 2 at pg -2/3,col. 1) even then it is high time that they are not being relieved from that college by the collusive approach of respondent university who appears to be co-sharer/ stake holder in such loot and illegalities.

- G. For any other relief/reliefs which this Hon'ble court may deem fit & Proper in the eye of law considering the petitioner entitled in the facts & circumstances of the case while at the time of hearing of this case.

We are of the considered view that the issues raised by the petitioner, stands fortified vide report of the Accountant General, as obtained under RTI, annexed as



Annexure-2, Page- 55).

The Accountant General has found certain amount to have been defalcated by the functionaries of the institutions, affiliated with L.N. Mithila University, Kameshwar Nagar, Darbhanga.

We are of the considered view that the issue needs to be considered rather seriously by Respondent No. 3, namely, The Vice- Chancellor, L.N. Mithila University, Kameshwar Nagar, Darbhanga for taking appropriate remedial measures against all erring officers/officials.

Should the said respondent not take appropriate action within a period of four weeks from today, liberty is reserved to the petitioner to invite attention of such fact to Respondent No. 1, namely, The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna, who, we are sure, shall also have the matter examined and take appropriate action at the earliest.

The present petition stands disposed of in the aforesaid terms.



Interlocutory Application(s), if any, shall stand disposed of.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Amrendra/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	14/11/2022
Transmission Date	

