

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3237 of 2023

1. Gaya Prasad Yadav, Son of Late Bhogi Lal Yadav, at present resident of Road No. 1 Extension, Rajbanshi Nagar, P.S.- Shastri Nagar, Town and District- Patna, permanently resident of village Pauni, P.S.- Madhepur, District- Madhubani, Ex-Secretary and Donor Member of Governing Body of Dev Narayan Yadav College, Madhubani of L.N. Mithila University, Darbhanga.
2. Chandrashekhar Prasad, Son of Late Deo Narayan Yadav, Ex-Professor Incharge of Dev Narayan Yadav College, Madhubani, resident of Kirtan Bhawan Road, Ward No. 18, P.S. Madhubani, Town and District- Madhubani.

... .. Petitioners

Versus

1. Lalit Narayan Mithila University Kameshar Nagar, Darbhanga 846004 through its Registrar.
2. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga 846004.
3. The Registrar, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga 846004.
4. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
5. Sri Bharat Bhushan Mandal, Member, Bihar Legislative Assembly, Laukaha, Madhubani, President, Adhoc Committee, of D.N.Y College, Madhubani.
6. Prof. Muneshwar Yadav, University Department of Political Science, L.N.M.U., Darbhanga, Secretary, Adhoc Committee of D.N.Y. College, Madhubani.
7. Prof. Dilip Kumar Choudhary, Department of Chemistry, C.M. Science College, Darbhanga, Member, Adhoc Committee of D.N.Y College, Madhubani.
8. The S.D.O. Madhubani, Member, Adhoc Committee of D.N.Y. College, Madhubani.
9. Sri Ram Narayan Yadav, Professor Incharge, Department of Economics, Member, Adhoc Committee of D.N.Y College, Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Senior Advocate Mr. Mritunjay Kumar, Advocate Mr. Shivam, Advocate
For the State	:	Mr. Prabhakar Jha, GP-27 Mr. Hari Mohan Mishra, AC to GP-27
For the LNMU	:	Mr. Nadim Seraj, Advocate
For Resp No. 9	:	Mr. Md. Kamran, Advocate



CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 10-08-2023 Heard learned Senior Counsel for the petitioners and
learned counsel for the Respondents.

2. Earlier, this writ application was heard on
19.06.2023. This Court passed the following order on the said
date:-

“Heard Mr. P.N. Shahi, learned Senior
Counsel assisted by Mr. Mrityunjay
Kumar, learned counsel for the
petitioners, Mr. Umesh Narayan Dubey,
learned AC to GP-27 for the State and
Mr. Nadim Seraj, learned counsel for the
Lalit Narayan Mithila University
(hereinafter referred to as the
‘University’).

Petitioners in this case are aggrieved by
and dissatisfied with the notification as
contained in Memo No. C/IC/18268-
18276/22 dated 08.12.2022 (Annexure
‘11’) whereby and whereunder the
Registrar of the University has notified
the decision of the Vice Chancellor to
dissolve the existing governing body of
Dev Narayan Yadav College, Madhubani
constituted earlier vide University Memo
No. C/IC/16002-16014/22 dated
08.08.2022 and in place of the said
governing body, an Ad Hoc Committee
has been placed in charge of the



governing body.

Learned Senior Counsel for the petitioners submits that on perusal of the impugned notification, it would appear that it has been passed in purported exercise of power said to have been conferred upon the Vice Chancellor under Clause 2(i) of the statutes relating to the governing body.

Referring to the said provision, learned Senior Counsel submits that Clause 2(ii) of the statute regarding the governing body would come into play only if there would be any difficulty in the formation or filling up of any seat in the governing body of any admitted College for any reason whatsoever. It would apply only in the given circumstance under Clause 2(ii). So far as the power to dissolve or suspend the governing body is concerned, the said power is specifically vested in the Syndicate under Clause 28(i) of the statute.

According to the proviso to sub-clause (2) of Clause 28 of the statute, before ordering suspension or dissolution of the governing body or before passing any other order indicated above, the Syndicate is obliged to give a reasonable opportunity to the governing body to show cause against such action.

It is the specific case of the petitioners pleaded in paragraphs '44' and '45' of the



writ application that no opportunity to show cause was given to the governing body before the issuance of the notification contained in Annexure '11' to the writ application.

Learned Senior Counsel has further submitted that the Vice Chancellor has referred the order dated 11.11.2022 passed in CWJC No. 15463 of 2022, however, on bare perusal of the said order (Annexure '8'), it would appear that when the report of the Accountant General was placed before the Hon'ble Court, the Hon'ble Court observed that "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. ..."

Learned Senior Counsel submits that instead of giving a consideration to the report in accordance with law, the Vice Chancellor seems to have proceeded to pass an order as if he has been authorized by the Hon'ble Court to dissolve the governing body as a consequence of the submission of the report to the Accountant General. No exercise towards consideration was taken up by the Vice Chancellor and these petitioners had no



opportunity to respond to the report before the Vice Chancellor.

In any case, it is submitted that the Vice Chancellor could not have assumed upon himself a power which was not vested in him by law.

Mr. Nadim Seraj, learned counsel for the University submits that the Vice Chancellor has taken the impugned decision in the light of the report of the Accountant General which was taken note of by the Hon'ble Court in CWJC No. 15463 of 2022 and the Vice Chancellor was directed to consider the same.

Issue notice to the Respondent Nos. 5 to 9 through both by ordinary process as well as under registered cover with A/D for which requisites etc. must be filed within one week from today, failing which this application as against concerned respondents shall stand dismissed without further reference to a Bench.

The Respondent Nos. 1 to 4 shall file their respective counter affidavits within four weeks from today.

This Court having prima facie noticed that the impugned notification (Annexure '11') has been issued by the Registrar pursuant to the order of the Vice Chancellor who is not the competent authority and further that prior to issuance of the said notification, there is no compliance with the principles of



natural justice which is embodied in the proviso to Clause 28 (i) of the statute regarding the governing body, this Court directs that till next hearing of the matter, there will be a stay of the notification dated 08.12.2022 as contained in Annexure '11' to the writ application. List this matter under the same heading after six weeks on 04.08.2023."

3. After passing of the aforesaid order, the Lalit Narayan Mithila University (hereinafter referred to as the 'University') has realized that the impugned order may not be sustainable in law, hence, the University came out with a notification contained in Memo No. LNMU/IC/127/23 dated 06.07.2023 whereby and whereunder the earlier notification as contained in Memo No. C/IC/18268-18276/22 dated 08.12.2022 by which an Ad-hoc Committee was constituted in D.N.Y. College, Madhubani has been withdrawn with immediate effect.

4. Mr. Nadim Seraj, learned counsel for the University submits that inadvertently the notification states that it is in compliance of the order dated 19.06.2023 whereas the fact is that the University has withdrawn the said earlier notification on its own decision after examining the entire materials.

5. Having regard to the aforesaid submissions, this Court finds that nothing remains for adjudication by this Court



in the present writ application.

6. This writ application is being disposed of as having become infructuous.

7. The interlocutory application filed on behalf of the Respondent No. 9 is also rendered infructuous and the same is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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