

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7588 of 2022

Sanjay Kumar Son of Shri Baliram Sharma Resident of Mohalla- Rikabganj,
P.S.- Tikari, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Vice Chancellor, Jai Prakash University, Chhapra.
3. The Registrar, Jai Prakash University, Chhapra.
4. The Sub-Divisional Officer (S.D.O.), Sonpur cum Secretary Purvottar Railway College, Sonpur, Saran.
5. Dr. Syed Raza, Associate Professor, Department of History, Jai Prakash University, Chhapra cum University Representative, Purvottar Railway College Sonpur, Saran.
6. Dr. Virendra Narayan Yadav, Honble M.L.C., Saran Graduate Assembly Constituency cum Public Representative, for Purvottar Railway College, Sonpur, Saran.
7. Shri Braj Bhushan Prasad Singh, Former Principal, Purvottar Railway College, Sonpur, Saran at present S/o Late Ram Vilash Singh, R/o Mohalla- Veer Kunwar Singh, Colony Uttari (North) Post and P.S.- Hajipur, District- Vaishali.
8. Dr. Pramod Kumar Das, Present Professor In Charge and Former Bad Sir of Purvottar Railway College, Sonpur, Saran.
9. Dr. Basant Kumar Singh (Retd. Professor) Mohalla- Shakti Nagar East of Prabhunath Nagar, Post- Chhapra, P.S. Chhapra Mufassil, Dist- Saran at Chhapra, Pin Code 841301.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. D.K. Sinha, Sr. Adv.
For the Respondent No. 8	:	Mr. Abhinav Srivastava, Adv.
For the University	:	Mr. Ritesh Kumar, Adv.
For the State	:	Mr. Nishant Kumar Jha, AC to SC 28

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 8 24-02-2023 1. Learned senior counsel for the petitioner invites attention to the provisions of statute 32 relating to the governing body and specifically to statute 32 (2) (I) to submit that if for any reason the governing body is not constituted, the



syndicate shall constitute an *ad hoc* Committee of not more than five members until the governing body is constituted. He submits that in light of the aforesaid provision, the notification dated 13.04.2022 impugned in the present writ petition cannot be sustained as the Vice-Chancellor has appointed an *ad hoc* Committee which consists of 7 members and, therefore, the said constitution is contrary to the provisions of statute 32 (2) (I) of the statute.

2. I have considered the submission, the **Bihar State Universities Act, 1976** provides as per **Section 60** that there shall be a governing body for the management and administration of each affiliated colleges other than the college owned and maintained by the State Government or a college established and administered by a minority community on the grounds of religion or language or an affiliated technical or medical college which shall consist of 7 members as mentioned therein. As per **Section 60(4)**, the Vice-Chancellor shall constitute an *ad hoc* committee for the management of the college so long as the governing body is not constituted in accordance with the provisions contained in **sub-Section 1**.

3. While the provisions of the Act empowered the Vice-Chancellor to constitute an *ad hoc* committee. The statute



32 framed under **Section 60** of the **Bihar Universities Act, 1976** (*supra*) provides as under:

“60. The Governing body. (1)

There shall be a governing body for the management and administration of “each affiliated College established and administered by a minority community on the grounds of religion or language or an affiliated technical or medical college.

It shall consist of following members-

(i) Principal of the College-Ex-Officio.

(ii) a member elected by and from amongst the teachers of the College.

(iii) a representative of the University nominated by the [Vice-Chancellor]

(iv) an officer of the State Government posted in the district, being not below the rank of a sub-divisional magistrate, nominated by the [Vice-Chancellor]

(v) a member elected by such donors from amongst themselves as have donated at least twenty five thousand rupees



to the College.

(vi) One member to be nominated by the [Vice-Chancellor], who is a member of the Parliament or the State Legislature and mainly resides in the district of the area in which the College is situated; and

(vii) One member co-opted by the Governing body from amongst such educationists or persons residing in the district where the College is situated as are reputed for their academic interest.

(4) The [Vice-Chancellor shall constitute an ad hoc committee for the management of the College so long as Governing body is not constituted in accordance with the provisions contained in sub-section (1).”

4. Statute 32 provides that if for any reason the governing body of an administrative college is not constituted, the syndicate shall constitute an *ad hoc* committee of not more than five members until the governing body is constituted. The President of the *ad hoc* body shall be nominated by the Vice-Chancellor. Thus, the power of Vice-Chancellor has been shifted to the syndicate by the statute.



5. The provisions of an Act would supercede any subordinate legislation. Statute 32(2) (1), therefore, has to be in consonance with the provisions of the act namely, **Section 60(4)**. Thus, this Court finds that it is the Vice-Chancellor alone who has the power to constitute an *ad hoc* committee.

6. The question arises whether the *ad hoc* committee to be framed can be of seven members or has to be of five members as provided in the statute (*supra*).

7. In the opinion of this Court, once this Court finds that the provision of Statute 32 (2) (1) of the statute is inoperative in as much as the syndicate has no power to constitute *ad hoc* committee. The statute cannot be read in part and the entire statute has to be treated as otiose. Therefore, the arguments raised by the learned senior counsel for the petitioner would have no basis as the said Statute 32 (2)(1) being in contradiction with **Section 60(4)** of the **Bihar Universities Act 1976**, cannot be enforced. At the same time, this Court finds that as per **Section 60(1)**, the governing body is to be of seven members. **Section 60 (4)** does not make any departure from **Section 60(1)** and it only speaks about an *ad hoc* committee to function, so long as the governing body is not constituted.

8. The *ad hoc* committee if framed of seven persons



therefore, cannot be said to be in any manner illegal or unjustified and in a way would be functioning similar to that of a governing body.

9. Hence, the submission of the learned senior counsel for the petitioner is not sustainable. No interference is warranted with the formation of the *ad hoc* committee.

10. It is informed that instead of the respondent namely, Brij Bhusan Prasad Singh, another member in consonance with the formation of the governing body has been appointed in his place vide order dated 08.06.2022. There is no objection to his appointment in any manner by the petitioner.

11. In view thereof, the writ petition fails. The interim order passed by the Court also stands vacated. Accordingly, the writ petition is dismissed.

Suraj/-
Item No. 67

(Sanjeev Prakash Sharma, J)

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