

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1626 of 2018

In

Civil Writ Jurisdiction Case No.20917 of 2014

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1. Hafiz Md. Karimullah @ H. M. Karimullah and Ors son of Late Md. Qamruddin, resident of Mohalla- Telhatta Bazar, Police Station and District Siwan.
 2. Tanweer Raza, son of Late Hadi Raza
 3. Sajid Hussain, son of Late Shamsuzzaman
 4. Atiul Haque, son of Late Salimul Haque
 5. Dr. Shahnawaz Ahmad, son of Late M.A. Gani
 6. Md. Khaliquzzaman, son of Abdul Ahad
 7. Dr. Nuruzzaman, son of Late Md. Hasim,
 8. Md. Abid Hussain, son of Md. Motawakkil
 9. Faiyaz Ahmad, son of Faizurl Hasan
 10. Abdus Samad Lani, son of Abdul Rahman
 11. Allauddin Khan, son of Haqueaullah All of them are of Z.H. Unani Medical College, Siwan, Police Station and District- Siwan.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Director, Department of Health, Government of Bihar, Patna.
3. The B.R. Ambedkar University, Muzaffarpur through its Vice Chancellor.
4. The Vice Chancellor, B.R. Ambedkar University, Muzaffarpur.
5. The Registrar, B.R. Ambedkar University, Muzaffarpur.
6. The Managing Committee, Z.H. Unani Medical College and Hospital, Siwan through its Secretary.
7. The Secretary, Managing Committee, Z.H. Unani Medical College, Siwan, Bihar.
8. The Principal, Z.H. Unani Medical College, Siwan.

... .. Respondent/s

Appearance :



For the Appellant/s : Mr. Abdul Mannan Khan, Advocate
Mr. Allama Abdul Quadir Jamal Faridi, Advocate
Mr. Vinay Kumar, Advocate
For the State : Mr. Anil Kumar Verma, AC to AAG-9

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-07-2023

The appellants are before this Court, in the writ petition seeking arrears of salary w.e.f. September 2011 to August 2012 as well as current salary w.e.f. August 2013.

2. The writ petition was dismissed finding that the prayer is made against the Managing Committee of a minority institution and in such circumstance, the petitioners would have to take other remedies and cannot invoke the extraordinary jurisdiction under Article 226.

3. The learned counsel appearing for the appellants specifically refers to Paragraph 64 of the judgment of the Hon'ble Supreme Court in *T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors; (2002) 8 SCC 481*. In the aforesaid paragraph, the question arose as to how a disciplinary proceeding can be initiated in a minority institution. It was specifically held that "In the case of a private institution, the



relationship between the Management and the employees is contractual in nature.” However, it was expressed that it would be appropriate that an Educational Tribunal be set up in each district in a State, to enable the aggrieved teacher to file an appeal from a disciplinary inquiry unless there already exists such an Educational Tribunal. It was also categorically held that the management of a private unaided educational institution need not seek the consent or approval of any Government authority before taking any disciplinary action against the employee.

4. Hence, what has been dealt with in the specific paragraph cited before us is with respect to disciplinary enquiries and the further procedure of a challenge to disciplinary enquiry.

5. It is for the State to set up such Tribunals and if the Tribunals are not set up, then necessarily the teachers would have their remedies before a Civil Court, especially in the present case where the grievance is specifically of recovery of money, that is salary due to them for the periods referred to in the writ petition.

6. In fact, the writ petition is of the year 2014, and now we are almost nine years from that time. A civil suit would



have given more result than invocation of the extraordinary jurisdiction, which is not possible, especially in the circumstance of the civil remedy available to the appellants and the relationship being purely contractual.

7. We do not find any reason to interfere with the order passed by the learned Single Judge and dismiss the appeal.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
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