

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.826 of 2022

In

Civil Writ Jurisdiction Case No.3874 of 2018

Dr Kanhaiya Choudhary son of Sri Rambhadur Choudhary resident of Village- Darhar, Police Station- Bahadurpur, District- Darbhanga, at present posted as Assistant Professor (Lecturer), Department of Home Science, M.R. M. College, Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Mr. Sanjay Kumar, I.A.S., presently holding the post of the Principal Secretary, Education Department, Government of Bihar, Patna.
3. Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga, through its Registrar Dr. Mustaque Ahmad.
4. Prof. Surendra Pratap Singh, presently holding the post of the Vice-Chancellor, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
5. Dr. Mustaque Ahmad, presently holding the post of the Registrar, Lalit Narayan Mithila University, Kameshwarnagar, Darbhanga.
6. Dr. Roop Kala Sinha, presently holding the post of the Principal, M.R.M. College, Darbhanga.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Gyanand Roy, Advocate
For the State	:	Mr.Madhaw Prasad Yadaw, GP-23
For LNMU	:	Mrs. Alka Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 05-04-2024 Heard Mr. Gyanand Roy, learned counsel appearing on behalf of the petitioner and Mrs. Alka Verma, representing the Lalit Narayan Mithila University, Darbhanga.

2. The present MJC has been preferred for complinace of the orders dated 1.8.2019 and 13.8.2019 in C.W.J.C. No. 3874 of 2018 by which the opposite parties were required to take decision regarding absorption of the



petitioner pursuant to tri-partite agreement in the light of Hon'le Apex Court's order in the case of **State of Bihar & Anr vs. Sunny Prakash & Ors** reported in **(2013) 3 SCC 559**.

3. A show cause on behalf of the opposite parties no. 3 to 5 is on record incorporating Annexure-A i.e. the memo no. 281/2022 dated 14.10.2022 issued by the Registrar of the said University by which the claim of the petitioner has been negated after holding as follows:

"in view of the facts mentioned herein above, it is crystal clear that the regularization/absorption of services of the petitioner cannot be made as:-

- I. His name does not figure in the Hon'ble Justice S.C. Agrawal Commission's report along with the names of other teachers of the Home Science subject of MLSM College Darbhanga; and*
- II. His claim petition as well as*



the review petition was rejected by the Hon'ble Justice S.B.Sinha Commission.

However, treating him at par with Part-Time/Guest Teacher, payment has already been made for the period he has worked as such.

Representation of the petitioner is disposed of in the above-mentioned terms.

Let a copy of this order be communicated to the petitioner as well as to the Counsel of the University at High Court, Patna for information & needful".

By the order of the Vice-Chancellor

Sd/-

(Prof. Mushtaque Ahmad)

REGISTRAR

Date: 14.10.2022



4. Though, learned counsel for the petitioner Mr. Gyanand Roy, learned counsel for the petitioner submits that the opposite parties have not followed the order of the writ Court in toto, in the opinion of this Court, once an order has been passed by the University and valid reason has been shown, it would be appropriate that the same is tested before a writ Court, if the petitioner so wants.

5. It has been informed by Mr. Gyanand Roy, learned counsel for the petitioner that though the said show cause which has been taken note by this Court was put an affidavit on 21.11.2022, copy has been served upon him only today. A perusal of the notice would show that submission put forward by the learned counsel is correct. This Court has also taken note of the fact that in another show cause dated 9.8.2023 of the present petition the opposite party nos. are missing and it is simply incorporated as follows:

*"In the matter of humble Show
cause on behalf of the opposite party no.
.....to"*

6. In that view of the matter, Mrs. Alka Verma, learned counsel appearing on behalf of the University is required to pay Rs. 2000/- to the learned counsel for the



petitioner, Mr. Gyanand Roy by 15.4.2024 and a receipt has to be submitted in the office.

7.The MJC No. 826 of 2022 stands disposed of granting liberty to the petitioner to challenge the same.

(Rajiv Roy, J)

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