

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.977 of 2024

In
Civil Writ Jurisdiction Case No.9937 of 2024

Vijay Kumar Son of Sri Ganga Kumar Yadav, Resident of Inday Jakhraj
Sthan, P.O. and District-Sheikhpura (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Chancellor of Universities Bihar through the Secretary, Governor's Secretariat, Raj Bhawan, Patna-800022 (Bihar).
3. The Munger University Shastrinagar, Munger-811201 (Bihar) through the Registrar.
4. The Syndicate, Munger University, Shastrinagar, Munger-811201 (Bihar).
5. The Vice Chancellor, Munger University, Shastrinagar, Munger-811201 (Bihar).
6. The Registrar, Munger University, Shastrinagar, Munger-811201 (Bihar).
7. The Sanjay Gandhi Smarak Mahila College, Station Road, Sheikhpura-811105 (Bihar) through its Secretary.
8. The Principal, Sanjay Gandhi Smarak Mahila College, Station Road, Sheikhpura-811105 (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Akshansh Ankit, Advocate Mr. Bhola Kumar, Advocate
For the University	:	Mr. Ritesh Kumar, Advocate
For the Chancellor	:	Mr. Janardan Pd. Singh, Sr. Advocate Mr. Rajiv Ranjan Kumar Pandey, Advocate
For the State	:	Mr. Addl. Advocate General 13

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



Date : 29-10-2024

The writ petition was filed by a Member and the Secretary of the Governing Body; who is also the Member of the Legislative Assembly, against the dissolution of the Governing Body constituted under Statute 32; 'Regarding Governing Body', specifically clause (1). The learned Single Judge directed that the petitioner would be delegated to the appellate remedy, before the Chancellor, which remedy could be availed within two weeks. The petitioner on behalf of the Governing Body challenges the order on the ground that the dissolution is without jurisdiction and competence.

2. We have heard Mr. Akshansh Ankit, learned Counsel for the appellant, Mr. Ritesh Kumar for the University, Mr. Janardan Prasad Singh, the learned Senior Counsel for the Chancellor and the learned AAG-13 for the State.

3. Section 60 speaks of a Governing Body for the management and administration of each affiliated college other than a college owned and maintained by the State Government or a college established and administered by a minority community. The members of such Governing Body are also specified in clause (1) to (7). Statute 32 (1) deals with the constitution of Governing Body and provides for seven



members; one the Principal of the college who is an ex officio member; one teacher, elected from and by the teachers of the College; one representative of the University nominated by the Syndicate; one Government Officer of the State Government not below the rank of the Sub-divisional Magistrate posted in the district, nominated by the Syndicate; one member elected from amongst themselves by Donors who have donated not less than Rs.25,000/- to the college; one member either of Parliament or the State Legislature residing in the district preferably of the locality where the college is situated nominated by the Syndicate; and one member co-opted by the Governing Body from amongst educationists or persons noted for their academic interest residing in the district where the college is situated.

4. The constitution as above has to be by election of two members, one from the teachers of the college and the other from the donors who have donated not less than Rs.25,000/- to the college, nomination by the Syndicate of one representative of the University, Government servant not below the rank of Sub-divisional Magistrate posted in the district and one member either of Parliament or the State Legislature residing in the district, preferably of the locality where the college is situated. The six members so constituted by election and nomination and



by virtue of the post held of the Principal, would co-opt the seventh member from amongst educationists or persons noted for their academic interest residing in the district where the college is situated.

5. Admittedly, the constitution of the Governing Body was carried out, of the respondent college, in the manner provided under Statute 32. The question arising is as to whether the dissolution was proper.

6. The dissolution was carried out by Annexure-P/7 which is produced along with the writ petition by the Vice Chancellor. The contention raised is that Annexure-P/7 is without jurisdiction and without competence. It is also pointed out that the Vice Chancellor has acted on the directions of the Chancellor as is available at Annexure-R/D which is a document produced by the University and hence an appeal to the Chancellor would be futile, as directed by the learned Single Judge. It is also argued without prejudice to the aforesaid contention that there is no appeal provided against an order of dissolution which again can only be by the Syndicate, as is provided in clause (28) of Statute 32.

7. The learned Senior Counsel appearing for the Chancellor as also the learned Counsel appearing for the



University would contend that there is no specific direction in Annexure-D and it is only a forwarding of a complaint, received in the office of the Chancellor to take necessary action as per the rules within 15 days. The learned Senior Counsel for the Chancellor also takes umbrage at the language employed in the impugned judgment in so far as a direction issued to the Chancellor; which office is occupied by a high constitutional functionary.

8. We have already noticed the constitution of the Governing Body as per clause (1) of Statute 32. An appeal provided is under sub-clause (ii) of clause (2). Clause 2(i) is with reference to the constitution of an Adhoc Committee of not more than five members until the Governing Body is constituted and sub-clause (ii) provides for an appeal to the Chancellor within 30 days of the decision of the Syndicate, if anybody is dissatisfied with such decision. In the present case, the constitution of an Adhoc Committee was only due to the dissolution of the Governing Body which itself is challenged in the writ petition. Hence, as of now, we would have to deal with the dissolution first and then look at the constitution of the Adhoc Committee; which is dependent upon the dissolution of the Governing Body.



9. Clause (28) of Statute 32 is under the heading ‘Suspension or dissolution of Governing Body or Cancellation of Grant-in-aid’. Clause 28(1) with its proviso is extracted hereunder:

“28. (1) The Syndicate may on its own motion or at the instance of the Vice Chancellor (i) suspend the Governing Body for a specific period or (ii) dissolve a Governing Body and order its re-constitution, or (iii) cancel grant-in-aid to the college concerned, if in the opinion of the Syndicate any such action is necessary to be taken for any one or more of the following reasons:

(a) That the college has failed to comply with the directions issued by the Syndicate under the laws of the University within a specific time.

(b) That the college has failed to observe the provisions of the laws of the University.

(c) That the accounts of the grants made to the college have been improperly utilised, and

(d) That the affairs of the college in the opinion of the Syndicate have been grossly mismanaged:

Provided however, that the before ordering suspension; or dissolution of the Governing Body or before passing any other order indicated above the Syndicate shall give a reasonable opportunity to the Governing Body to show cause against such action.”

10. It is very clear from the above extracted provision that the Syndicate has been conferred with the Authority to suspend or dissolve a properly constituted Governing Body, *suo-motu* or at the instance of the Vice Chancellor, if in the opinion of the Syndicate any such action is



necessary to be taken for any of the reasons as enumerated in clauses (a) to (d). Hence even if Vice-Chancellor is in receipt of a complaint alleging any of the contingencies under clause (a) to (d) of clause 28(1) of the Statute, necessarily the same has to be forwarded to the Syndicate which will have to consider whether any action of suspension or dissolution of the Governing Body is to be carried out. The proviso also stipulates that before such order of suspension or dissolution, a reasonable opportunity has to be given to Governing Body to show cause against such action.

11. In the present case, the Vice Chancellor has taken the action himself without forwarding the complaint to the Syndicate for a proper consideration. The Vice Chancellor also did not provide any hearing to the Governing Body before the dissolution of the Governing Body was ordered; which finding is without prejudice to the finding that the Vice Chancellor does not have the competence to suspend or dissolve a properly constituted Governing Body. This is especially so when, as we noticed while considering the Statute governing the constitution, that majority of the members; three out of seven, are nominated by the Syndicate and two are elected by a specified electoral body.



12. On the above reasoning, we are of the definite view that the dissolution of the Governing Body was not in accordance with the Statute. We hasten to observe that the Vice Chancellor could even now forward the complaint to the Syndicate who will have to take an action in the manner provided in the Statute. We only fortify our reasoning on the oft quoted principle that; when something is required to be done in a particular manner, it has to be done in that manner or not at all.

13. We see from the impugned order that the Vice Chancellor has dissolved the Governing Body in anticipation of approval from the Syndicate. Such a ratification of the decision taken by the Vice Chancellor does not emanate from the Statute and as we found, the decision itself, of dissolution, should be of the Syndicate and the Vice Chancellor has only to make a motion before the Syndicate, pointing out the allegations and the complaints raised against the Governing Body. On the above reasoning, we find the impugned order to be bad in law and we set aside the same. The judgment of the learned Single Judge also is set aside.

14. Now we come to the objection raised by the petitioner against the communication issued by the office of the Chancellor and the objection raised by the learned Senior



Counsel appearing for the Chancellor on the language used in the judgment. We see from Annexure-D that there is no specific direction issued for dissolution or otherwise. The Chancellor's office has only forwarded the complaint received to the Vice Chancellor for consideration. In so far as the direction issued, we cannot but notice that the direction is not issued to the Chancellor and it is only issued to the office of the Chancellor. We observe, for ourselves, that even though the position of Chancellor is statutory, since it is held by a high constitutional functionary, the language employed and the words used should be tempered; but we find no reason to say anything further since the direction was to the Office of the Chancellor as distinguished from the Chancellor and since we are setting aside the impugned judgment which issued the direction.

15. The appeal is allowed. The judgment of the learned Single Judge is set aside and so is the impugned order set aside.

16. We make it clear that our judgment does not restrain the Vice Chancellor from taking action in the proper manner as provided in the Statute by forwarding the complaint to the Syndicate and the Syndicate considering it under clause (28) of Statute 32.



17. Since the constitution of the Adhoc Committee is only based on the dissolution of the Governing Body, such constitution will also stand set aside.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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