

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1016 of 2024

In
Civil Writ Jurisdiction Case No.3141 of 2024

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The Secretary of the Governing Body, Mirza Ghalib College Gaya

... .. Appellant/s

Versus

1. Dr Shujaat Ali Khan S/o-Late Sadarat Hussain Khan Resident of Sarim House, Road No.-17 New Karim Ganj, P.S.-Civil Lines, District-Gaya, Bihar, Presently Working as Professor In Charge of Mirza Ghalib College, Gaya.
2. The State of Bihar through Additional Chief Secretary, Education, Govt, of Bihar, New Secretariat, Patna.
3. The Additional Chief Secretary, Education, Govt, of Bihar, New Secretariat, Patna.
4. The Director, Higher Education, Govt. of Bihar, Patna.
5. The Magadh University, Bodh Gaya through its Registrar.
6. The Vice-Chancellor, Magadh University, Bodh Gaya, Gaya.
7. The Registrar, Magadh University, Bodh Gaya, Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Amit Srivastava, Sr. Advocate Mr.Girish Pandey, Advocate
For Respondent No.1	:	Mr.Rashid Izhar, Advocate Mr.Adil Abbas, Advocate
For the State	:	Mr.Sarvesh Kr. Singh, AAG-13
For the University	:	Mr.Siddhartha Prasad, Advocate Mr.Sunit Kumar, Advocate

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

Date : 08-10-2024

The appeal is filed by the governing body of the college aggrieved by the judgment of the learned Single Judge, which granted two months' time to appoint a Principal in accordance with the Bihar State Universities Act, 1976 (for



brevity “Universities Act”) and a further direction that the writ petitioner who was Professor-in-charge would act as Administrative- in-charge of the college in the absence of a duly appointed Principal, within two months.

2. The writ petitioner-respondent no.1 was removed from the post of Administrative-in-charge and Professor-in-charge of the college, thus making him dis-entitled to hold the office of the Principal. This was challenged by the writ petitioner before this Court. The learned Single Judge found that the Universities Act provides for a definition of teacher which includes the Principal of a college. Section 57(A)(5) provides for the appointment of a teacher in minority colleges which has to be made by the Governing Body of the college with approval of the Selection Committee as constituted under Section 57(B). Admittedly, there was no Principal appointed for long in the college; since 2017. The earlier Governing Body appointed the petitioner as the Professor-in-charge of the Mirza Ghalib College, Gaya authorising him to function as the administrative head of the college in the absence of the Principal. The petitioner was not even the senior most, according to the present Governing Body, who has filed the appeal.

3. The learned Senior Counsel appearing for the



Governing Body-the appellant would contend that the Governing Body being a society, a writ will not lie. There is no reason for invocation of the extraordinary remedy under Article 226 of the Constitution of India; the Society not coming within the ambit of State under Article 12 of the Constitution of India. However, we are not ready to accept the said contention, since the grievance was with respect to a Principal in a college which is affiliated to a University. The scope of Article 226 of the Constitution of India, in view of the public functions carried out by the college would stand extended to such appointment also.

4. We notice that there is a specific provision in the Universities Act for appointment of a Principal which has not been followed for the last so many years. The learned Single Judge having noticed that there is a provision which has been bypassed, by having a Principal-in-charge in place for the last seven years had directed the Governing Body to carry out the steps for appointment with approval of the Selection Committee, within a period of two months. Insofar as the said direction is concerned, the appellant is only aggrieved with the short time granted. The learned Senior Counsel seeks for six months' time which we think, is perfectly in order.

5. Insofar as the direction that if the appointment of a



Principal is not made within two months, the writ petitioner’s continuation as Administrative-in-charge; it would go against the very provisions of the statute and interfere with the right of a minority college under Article 30(1) of the Constitution of India.

6. In such circumstances, the minority college would be entitled to have an Administrative-in-charge appointed by the Governing Body, but only to be continued for six months, within which time, they would make a regular appointment. The Administrative-in-charge, if appointed will vacate his office on the new Principal being appointed.

7. The appeal stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Anushka/-

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CAV DATE	
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