

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4570 of 2018

In
Civil Writ Jurisdiction Case No.8120 of 2016

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Janardan Prasad Singh, Son of Late Ram Lakhan Singh, resident of Village-
Rupaspur, Post- Gosainmath, Police Station- Chandi, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department
Namely Mr. R. K. Mahajan.
2. The Director, Higher Education Department, Govt. of Bihar, Patna namely
Mr. Sushil Kumar.
3. The Vice-Chancellor, Magadh University, namely Dr. Kamar Ahsan.
4. The Registrar, Magadh University, namely Colonel Pranav Kumar.
5. The Vice Chancellor, Patliputra University, Patna, namely Dr. Gulabchand
Ram Jaiswal.
6. The Registrar, Patliputra University, Patna namely Colonel Manoj Kumar
Mishra.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s

: Mr. Chakrapani, Advocate
Mr. Sanjay Kumar Singh, Advocate
Mr. Madhuresh Singh, Advocate
Mr. Dipak Kumar, Advocate
Mr. Amritanshu Udbhava, Advocate

For the Magadh University

For the Patliputra University

For the State

: Mr. Sunil Kumar Singh, Advocate
: Mr. Rana Vikram Singh, Advocate
: Mr. Sarvesh Kumar Singh, AAG-13
Mr. Ravi Kumar, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE KHATIM REZA

CAV ORDER

27 03-04-2025

Heard Mr. Chakrapani, learned counsel for the
petitioner; Mr. Sunil Kumar Singh, learned counsel
representing Magadh University; Mr. Rana Vikram Singh,



learned counsel for the Patliputra University; and Mr. Sarvesh Kumar Singh, learned Additional Advocate General-13 for the State.

2. The present contempt petition has been preferred by the petitioner for initiation of a contempt proceeding against the opposite parties for their willful and deliberate disobedience of the order dated 27-03-2018 passed by this Court in C.W.J.C. No. 8120 of 2016.

3. This Court deems it appropriate to reproduce the operative portion of the said order, which reads as follows:-

“In view of the above, it is not in dispute that the college in question was granted affiliation up to intermediate level before introducing the वित्त रहित शिक्षा नीति of 9.12.1982. Since the वित्त रहित शिक्षा नीति was introduced with effect from 9.12.1982, the respondents are required to consider the case of the petitioner institution covered by pre वित्त रहित शिक्षा नीति and grant all the benefits admissible to the college is granted affiliation prior to 9.12.1982.

Learned counsel for the petitioner has drawn attention to Annexure-6 and 7 whereby respondents have granted benefit of financial aid to Ram Bilash Singh College, Begusarai the college was granted affiliation subsequent to the affiliation granted to the petitioner institution.



*In view of the aforesaid fact the State is not allowed to treat differently even in the matter of distribution of largesse and bounty as held out by the Apex Court in the case of **R.D. Shetty vs. IAAI & Ors** reported in **AIR 1979 Supreme Court 1628** in the matter of granting financial assistance to the college, the respondent State cannot adopt two yardsticks one for college in question and different yardstick for other affiliated colleges granted affiliation prior to cut off date of 9.12.1982.*

In view of the discussion above, the order contained in Annexure-12/1 and 12/2 dated 23.12.2014 and 19.02.2015 cannot sustain and it is accordingly quashed. The respondents are directed to work out the financial assistance admissible to the petitioner institution within a maximum period of six months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.”

Brief facts of the case:-

4. The petitioner filed writ petition bearing C.W.J.C. No. 8120 of 2016 for quashing of the orders dated 23.12.2014 and 19.02.2015 passed by the Respondent No. 4, as contained in Annexures 12/1 and 12/2, wherein it was wrongly held, without giving any reason, that the petitioner's case comes under the purview of "Vitt Rahit Shiksha Niti" which came into force from



19.12.1982. The petitioner also sought a direction against respondents-State especially, Respondent No. 2 to 5, to pay arrears of admissible salary to the petitioner with effect from 09.08.1985 to 30.06.2013, similar to the employees working in deficit grant-affiliated colleges as the affiliation of G.D.M. College, Harnaut, Nalanda was granted on 09.09.1981 by the State Govt. under "Vitt Sahit Shiksha Niti" and the petitioner was appointed on the first post of the subject of Mathematics as Lecturer on 16.02.1979, i.e., much prior to 19.12.1982, the date on which the "Vitt Rahit Shiksha Niti" came into force as well as also sought a direction to the respondents to treat his service as a Lecturer to the first post of Mathematics of G.D.M. College, Harnaut, Nalanda from the date of his initial appointment dated 16.02.1979, as concurred by the Bihar College Service Commission vide memo no. 593 dated 09.08.1985, under the provisions of Bihar State Universities Act, 1976. Furthermore, the petitioner also sought a direction against the respondents-State to fix his pension and to allow other financial admissible benefits, similar to employees working in deficit grant-affiliated colleges, under the provisions contained in Governor's Secretariat Letter No. BSU 47/2013-93 GS(1) dated 15.01.2014 along with other consequential reliefs.



5. After hearing the parties, the aforesaid writ application was disposed of with certain directions as stated above.

6. Aggrieved by the order dated 27-03-2018, passed in CWJC No. 8120 of 2016, the State of Bihar preferred an appeal bearing L.P.A. No. 1312 of 2018, challenging the claim of the extension of grant-in-aid to GDM College, Harnaut, District Nalanda.

7. During the pendency of Letters Patent Appeal, appellant No.2 (the Principal Secretary, Education Department, Govt. of Bihar, New Secretariat, Patna) filed second supplementary affidavit on 22nd February, 2019. In paragraph No. 27 of the affidavit, it was categorically admitted that the Colleges, which had been granted affiliation prior to 09-12-1982, were decided by the State Government to be converted into constituent units of respective universities or granted deficit in aid, as the case may be, and, in phased manner, 225 colleges were made constituent units; whereas 31 colleges were provided facility of deficit grant-in-aid.

8. The Hon'ble Division Bench of this Court, after considering the matter in issue and the undisputed facts, has held that the aforesaid facts also remain undisputed in view of the averments made in paragraph No. 27 of the second



supplementary affidavit filed on behalf of the appellant no.2 in LPA No. 1312 of 2018. Accordingly, the appeal was dismissed *vide* order dated 27-02-2019. It was further observed that the respondent- petitioner to proceed with the contempt matter stated to be pending before the learned Single Judge, i.e., MJC No. 4570 of 2018.

9. The State of Bihar assailed the order dated 27-02-2019 passed, in LPA No. 1312 of 2018, in Special Leave to Appeal (C) 12333 of 2019, which was dismissed on 29-08-2023, wherein the Hon'ble Apex Court has held that the view taken by the High Court is correct, especially when similarly placed institutions were granted benefits. There is no merit in the Special Leave Petition, and the same is accordingly dismissed.

10. Again, the State of Bihar and others filed Review petition (Civil) No. 799 of 2024, which was dismissed on 23-04-2024, against which Curative petition (Civil) No. 159 of 2024 was filed by the State, which too stood dismissed on 24-09-2024. Despite the affirmance of order dated 27-03-2018, passed in C.W.J.C .No. 8120 of 2016, up to the Hon'ble Supreme Court, the State of Bihar has failed to comply with its terms in letter and spirit.

11. Pursuant to the order passed by this Court on



28-10-2024 in the present case, opposite party nos. 1 and 2 filed fifth supplementary show cause on 14-11-2024, wherein the State Government stated that the department had passed an order directing the concerned University/College to work out the financial assistance admissible to the petitioner. In view of the aforesaid facts, vide order dated 12-11-2024, the University was directed by the State to constitute a special committee for the calculation of admitted dues of the petitioner. Further, on 10-12-2024, this Court directed the counsel for the University to file a separate calculation of petitioner's claim. In compliance of this Court's direction, Patliputra University filed a second supplementary show cause annexing the recalculated claim and the second interim report of the Special Enquiry Committee. The report reveals that the petitioner's claim had been calculated for the period from August 1985 to June 2013, when the petitioner voluntarily retired on 30-06-2013. Learned counsel for the Patliputra University informed the Court on 20-12-2024 that a demand for funds has been submitted to the State Government for making payment to the petitioner. It is apparent from the said calculation that the Patliputra University has not calculated the amount which accrued for pensionary benefits after the voluntary retirement of the petitioner on 30-06-2013. In the



aforesaid facts, the Registrar of the Patliputra University (Opposite party No.6) was directed to pass a reasoned order on the petitioner's representation, which was sent to him through Speed Post on 30-01-2024, within a period of four weeks from that day, i.e., 20-12-2024, and also directed the University to furnish the complete details of the petitioner's monthly pension from July 2013 and other pensionary benefits. Further, the Principal Secretary, Education Department, Government of Bihar, Patna (Respondent No.1), and the Director, Higher Education Department, Government of Bihar, Patna (Opposite Party No.2) were ordered to take necessary steps within a period of three weeks for release of the funds as required by the Patliputra University for making the payment to the petitioner.

12. In compliance of this court's order dated 20-12-2024, Patliputra University, filed third supplementary show cause, stating that a reasoned order was passed by the Registrar of the University on 16-01-2025, in accordance with the said order. This order is enclosed as Annexure R/Q to the third supplementary show cause on behalf of the Patliputra University. The stand taken by the concerned College contradicts both the petitioner's claim and the pleadings of the Patliputra University. In such view of the matter, the Registrar of



Patliputra University was directed to verify the original records of the concerned college and the documents filed or relied upon by the petitioner in presence of both the petitioner and the Principal, GDM College, Harnaut, Nalanda. After completing the verification, the Registrar was directed to pass a final order in the matter. The case was then directed to be listed under the heading 'For Admission' on 13-02-2025

13. In compliance of this court's order dated 30-01-2025, university/opposite party Nos. 5 and 6 filed the fourth supplementary show cause on 19-02-2025. In paragraph no.9 of the affidavit, it has been stated that as per the records submitted by the Principal, G.D.M. College, the total pending arrears due to the petitioner is amounting to Rs. 54,96,294 (Fifty-four lakhs ninety -six thousand two hundred ninety-four). It has further been assured that the said amount will be paid to the petitioner as soon as the requisite funds are made available to the University by the State Government.

14. On the other hand, the learned counsel for the petitioner filed a rejoinder on 03-03-2025 in response to the fourth supplementary show cause submitted by opposite party Nos. 5 and 6, stating that, as per the latest calculation chart provided by the college, the petitioner's basic pay has been



shown in the scale of 400-950, contrary to the petitioner's entitlement to the pay scale of Rs. 700-1600/-. The petitioner also raised objections with regard to denial of promotion, arguing that, since the State Government has not declared the college in question having a deficit grant status, he is being denied consideration for promotion despite the applicable Statute and also raised objection with regard to denial of pensionary benefits by the University. Learned counsel for the petitioner further submitted that similarly situated teaching employees of the Purvottar Railway College, Sonapur, who were appointed to the first post and retired after 31-08-2010, are getting post-retirement benefits like any other employees of the constituent colleges.

15. On the contrary, learned counsel for the opposite party nos. 1 and 2 filed fifth supplementary affidavit on 14th November, 2024 in compliance of this Court's order dated 28-10-2024 whereby this Court directed the State authority to comply with the direction contained in the order under contempt. The learned counsel for the State (respondent nos. 1 and 2) submitted that the present matter was placed before the Empowered Committee, constituted under the Chairmanship of the Chief Secretary, and the said Committee made its



recommendation on the matter in compliance of the order of this court. Based on the recommendations of the Empowered Committee, the Department passed a reasoned and speaking order on 12-11-2024 vide Memo No. 1580, whereby payment to the eligible teaching and non-teaching staff of the Guru Sahay Devsharan Memorial College, Harnaut, Nalanda was directed for the period from the date of intermediate-level affiliation granted to the said college i.e., 09-09-1981 to 19-10-1982, by treating the college as if it was a deficit grant college. The Department vide Memo No. 1115 dated 05-08-2024, requested the Registrar of the concerned University to make a statement after verifying all relevant facts. It was further submitted that since all details of the employees of the college in question are with the concerned university, it is the responsibility of the University to first identify the eligible employees for such benefits, calculate the admissible amount required to be paid to them for the specified period, and then make the actual payment. Learned counsel for the State further submitted that the Department has complied with the directions contained in the order under contempt by giving the necessary directions to the University to work out the financial assistance admissible to the petitioner institution, as per the directions in the order dated



27-03-2018 under contempt. It is further stated in the 5th supplementary show cause that the onus now lies on the concerned university to make the actual payment to the eligible employees of the petitioner institution for the period in question, in accordance with law.

16. Although the University has calculated the financial assistance admissible to the petitioner amounting to Rs.54,96,294/-(Fifty four lakhs ninety- six thousand two hundred ninety- four) based on the U.G.C. pay scale of Rs. 400-950 computing from the date of creation of post, the petitioner has objected to the aforesaid calculation. The petitioner contends that the applicable U.G.C. pay scale should be 700-1600, and the payment should have been made accordingly. This disputed issue can not be adjudicated in the present proceedings.

17. In the aforesaid facts and circumstances as well as the submissions of the parties, the University has already calculated the financial assistance payable to the petitioner i.e., amounting to Rs.54,96,294/- (Fifty four lakhs ninety- six thousand two hundred ninety- four). Therefore, it is the liability of the State to disburse the said amount in compliance of the order dated 27-03-2018, passed in C.W. J.C. No. 8120 of 2016, within a period of six weeks.



18. It is made clear that the amount required to be paid to the petitioner, as mentioned above, must be positively paid within the stipulated time. Furthermore, petitioner's claim, if any, shall remain open for challenging the calculation done by the respondent authorities. The fact remains that the Opposite Parties- authorities have worked out the financial assistance admissible to the petitioner as required by this court's order dated 27-03-2018, and they have calculated the amount required to be paid to the petitioner though belatedly.

19. Thus, this Court disposes of the instant contempt application in the light of the aforesaid direction.

(Khatim Reza, J)

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