

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3653 of 2019

Dr. Surendra Prasad Dwivedi S/o Late Hari Narayan Dubey Vill.-Atimi, P.O.-
Atimi, Ps- Nawanagar, Distt.-Buxar

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through Principal Secretary, Department of Education, Govt. of Bihar, Patna
2. The Additional Secretary Education Department, Govt. of Bihar, Patna
3. The Director Higher Education Department, Govt. of Bihar, Patna
4. Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga
5. The Vice-Chancellor Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga, Darbhanga
6. The Registrar Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga
7. The Governing Body Shriniwas Mukund Ramanuj Sanskrit College, Basaonkala, Buxar through its Secretary

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 23716 of 2018

Gangadhar Thakur son of late Parameshwar Thakur, resident of At-Village-
Khamhar, P.S-Mufassil, District-Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Director, Higher Education, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar
4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3825 of 2019

Dr. Kumari Nilam Wife of Shri Thakur Jwala Prasad Resident of Lohia Kuti,
Shastri Nagar, P.S. Siwan, District- Siwan.



... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Education Department, Bihar, Patna
2. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
3. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
4. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
5. Sri Chhatradhari Sanskrit College, Gopal Mandir, Hathua, District-Gopalganj through the Secretary of its Governing Body.
6. Secretary, Governing Body, Sri Chhatradhari Sanskrit College, Gopal Mandir, Hathua, District- Gopalganj.
7. Principal, Sri Chhatradhari Sanskrit College, Gopal Mandir, Hathua, District- Gopalganj.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10239 of 2019

Krishna Kant Mishra S/o Late Abhinandan Mishra Resident of Mithila Colony,J.P. Chowk,Laxminagar,P.O. Laxminagar,Dist.Darbhangha,Pin-846004

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary,Education Department,Bihar,Patna
2. Director,Higher Education, Education Department,Bihar,Patna
3. Kameshwar Singh, Darbhanga Sanskrit University,Darbhangha through its Registrar
4. Vice Chancellor,Kameshwar Singh Darbhanga Sanskrit University,Darbhangha
5. Registrar,Kameshwar Singh Darbhanga Sanskrit University,Darbhangha
6. Principal,Rajeshwar Thakur, Sanskrit Mahavidyalaya,Gorhiyari Raghapur,P.S. Manigachhi,Dist.-Darbhanga

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10722 of 2019

Shashidhar Jha Son of Late Avadh Lal Jha Resident of Village- Bhatsimar Rajnagar, District- Madhubani, Bihar, Pin- 847235

... .. Petitioner/s



Versus

1. The State of Bihar Through the Additional Chief Secretary, Education Department, Patna.
2. The Director Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University Darbhanga, through its Registrar
4. The Vice Chancellor Kameshwar Singh Darbhanga Sanskrit University Darbhanga.
5. The Registrar Kameshwar Singh Darbhanga Sanskrit University Darbhanga.
6. The Principal Sanskrit Mahavidyalaya, Rosera, District- Samastipur Pin.- 848210

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 10787 of 2019

1. Jeebeshwar Pratihast Son of Late Jagdish Pratihast, Resident of Ward no.12, Puwari Tol, Chhatauni, Basopatti, P.O.-Chhitauni, District-Madhubani, Pin-847225
2. Shashikant Jha, Son of Late Kamala Kant Jha, Resident of Potgah, Post-Madhubani, District-Madhubani, Pin-847225

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, education Department, Bihar, Patna.
2. Director, Higher Education, education Department , Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar
4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga
5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11469 of 2019

Dr. Kashi Nath Jha son of Late Shri Devnath Jha resident of Shubhankarpur, Dayodhi, Radha Krishna Mandir, P.O. and P.S.- Shubhankarpur, Chataria, District- Darbhanga- 846006.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of



Education, Bihar, Patna.

2. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
3. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. Principal, Nandan Sanskrit Mahavidyalaya, Ishapur, Deep, Madhubani.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 14595 of 2019

Dwarika Nath Jha Son of Kanj Nath Jha Resident of Ward No. 46, Rambagh,
Dharm Samaj Sanskrit College Campus, Musahri, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Bihar, Patna.
2. The Director Higher Education, Government of Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University Darbhanga through its Registrar.
4. Vice Chancellor Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. The Registrar Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 3653 of 2019)

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

Mr.Durga Nand Jha, Advocate

For the Respondent/s : Mr. Prabhat Ranjan Singh, AC to AAG 15

For the Respondent/s : Mr. Sarvesh Singh, AAG-13

(In Civil Writ Jurisdiction Case No. 23716 of 2018)

For the Petitioner/s : Mr.Abhinav Srivastava, Senior Advocate

For the Respondent/s : Mr.Prabhakar Jha- GP27

Mr. Shankar Kr. Thakur, AC to GP27

(In Civil Writ Jurisdiction Case No. 3825 of 2019)

For the Petitioner/s : Mr.Abhinav Srivastava, Senior Advocate

For the Respondent/s : Smt.Shilpa Singh (GA12)

(In Civil Writ Jurisdiction Case No. 10239 of 2019)

For the Petitioner/s : Mr.Abhinav Srivastava, Senior Advocate

For the Respondent/s : Smt.Binita Singh (SC28)

(In Civil Writ Jurisdiction Case No. 10722 of 2019)

For the Petitioner/s : Mr.Abhinav Srivastava ,Senior Advocate

For the Respondent/s : Mr.Madanjeet Kumar (GP20)

(In Civil Writ Jurisdiction Case No. 10787 of 2019)



For the Petitioner/s : Mr.Abhinav Srivastava, Senior Advocate
For the Respondent/s : Mr.Kameshwar Kumar (GP17)
(In Civil Writ Jurisdiction Case No. 11469 of 2019)
For the Petitioner/s : Mr.Abhinav Srivastava, Senior Advocate
For the Respondent/s : Smt. Binita Singh (SC28)
(In Civil Writ Jurisdiction Case No. 14595 of 2019)
For the Petitioner/s : Mr.Abhinav Srivastava, Senior Advocate
For the Respondent/s : Mr. Mr. Prabhat Ranjan Singh, AC to AAG 15

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
CAV JUDGMENT

Date : 19-12-2025

Heard Mr. Abhinav Srivastava, learned Senior Counsel, Mr. Sanjay Kumar, learned counsel for the petitioners and Mr. Sarvesh Singh, AAG-13, learned Senior counsel along with other counsels for the respondents.

2. Through bench slip dated 25.09.2025 filed in CWJC No. 10239 of 2019, submitted before the Hon'ble Bench to list along with CWJC Nos. 10787 of 2019, 10239 of 2019, 10722 of 2019, 14595 of 2019, 23716 of 2018, 11469 of 2019 and 3825 of 2019 the aforesaid case were accordingly, made analogous and for the last several dates, these matters were heard together and finally, in all these matters hearing got concluded on 24.11.2025 and the judgment was reserved, which is being adjudicated in the following manner.

3. Firstly, this Court would be taking up the matters related to affiliated colleges being CWJC No. 3653 of 2019, CWJC No. 3825 of 2019, CWJC No.10787 of 2019, CWJC No. 10239 of 2019 and CWJC No.10722 of 2019 for its adjudication



and the relief(s) sought for by filing their respective writ petitions are being referred hereinbelow:-

AFFILIATED COLLEGES

Civil Writ Jurisdiction Case No. 3653 of 2019

4. The petitioner has preferred this writ application for the following relief(s):-

“(i) Issuance of a writ in the nature of Mandamus directing and commanding the Respondents to pay the Retiral benefits to the petitioner including Full pension on the basis of last pay drawn in 6th Pay Revision Pay Scale, Leave encashment of 300 days, Provident fund, gratuity, arrear salary from June 2011 till the date of retirement, difference of U.G.C. pay and other admissible retiral benefits with adequate amount of interest 18% per annum with suitable amount of compensation and penal interest to which petitioner is entitled to.

(ii) Issuance of a further writ in the nature of Mandamus directing and commanding the Respondents to pay the post retiral benefits to the petitioner in the light of Government decision dated 15.01.2014 as also in the light of Notification contained in Memo no. 5447-5481 dated 22.07.2014 issued under the signature of Registrar by the order of Vice-Chancellor of Kameshwar Singh Darbhanga Sanskrit University (here-in-after to be referred to as the university).

(iii) Issuance of a consequential writ in the nature of certiorari for quashing the orders contained in Memo no. 1726



dated 23.09.2018 issued by the Additional Secretary, Education Department, Government of Bihar, Patna whereby and where under the proposal sent by the university for confirmation of services of 67 teachers (wrongly including petitioner) has been rejected by the Government non est on ground without appreciating that name of petitioner was wrongly included because the petitioner was working on permanent basis on the recommendation of the then college service commission and proposal for confirmation of his service was not at all required.

(iv) Issuance of appropriate direction to Respondents to release the salary of petitioner, which has not been paid to him since June 2011 till April 2016, till date although the petitioner has been made to retire on 30.04.2016 on attaining the age of superannuation (65 years).

(V) Any other relief or reliefs be granted to petitioner to which he is found to be entitled to in accordance with law.”

Submissions of the petitioner

5. Mr. Sanjay Kumar, learned counsel appearing for the petitioner submits that Shri Niwas Mukund Ramanuj Sanskrit College, Basaonkala, Buxar is an affiliated College under Kameshwar Singh Darbhanga Sanskrit University. The State Government through Department of HRD, Government of Bihar *vide* Memo No. 2261 dated 18.10.1976 granted the approval and sanctioned 10 posts for teachers including the



Principal, which is referred in para-4 of the writ petition. Pursuant to the Advertisement in the daily newspaper “Pradeep” dated 12.01.1980, the petitioner applied for the said post and was properly interviewed on 25.01.1980 by the duly constituted Selection Committee and appointment letter dated 27.01.1980 was issued and pursuant thereto the petitioner submitted his joining on 01.04.1980 and since then, he had been working. After his appointment was made, the University granted approval of the said appointment for six months, which was extended from time to time and was duly concurred by the College Service Commission till 1990. The University and the College Service Commission having granted its approval *vide* Annexure-13 (series).

6. Learned counsel next submits that while the petitioner was so working in the said College, the post of Sahitya Acharya was advertised for permanent appointment by the College Service Commission *vide* Advertisement No. 1156/89 and after resorting to the procedures prescribed, the name of the petitioner was again recommended by the Commission for permanent appointment *vide* Letter No. 1840 dated 22.01.2002 and accordingly, the service of petitioner was confirmed and made permanent by the Governing Body *vide*



resolution no. 5 dated 20.05.2002 and such permanent appointment made on the basis of recommendation made by the College Service Commission was sent to the University by the Secretary of Governing Body for approval w.e.f 26.01.1980.

7. Learned counsel further submitted that till May, 2011, the petitioner and similarly situated persons were working and all of a sudden, their salaries were withheld by the Government without assigning any reason and accordingly, the matter was represented before the Government by such teachers including the petitioner, upon which, the Director Higher Education *vide* his letter no. 2607 dated 27th October, 2011 released the fund stating clearly that only three teachers working in Srinivas Mukund Ramanuj Sanskrit College are entitled, as their names were recommended by the College Service Commission. The name of the petitioner is shown at Serial No.9(iv) showing approval by the College Service Commission and in spite of such approval, no payment of salary was made to the petitioner from June 2011. Thereafter, the petitioner frequently, approached the authority with request to release his due salary from June 2011 but no heed was paid to such request. In the meantime, similar matters were decided by the Co-ordinate Bench of the Court *vide* order dated 23.04.2014 passed



in CWJC No. 20581 of 2013 with a direction to the State Government to release the fund for payment of arrears and current salary to the petitioner by fixing the time line. Thereafter, the petitioner made representation before the Registrar of the University on 08.02.2016 with copies to Vice-Chancellor, Finance Officer, Director, Higher Education and Principal Secretary, Education Department for release of salary w.e.f June 2011. The petitioner kept waiting for his payment of salary and the Principal of the College by the order of Secretary of Governing Body, *vide* letter no. 17/2016 dated 29.04.2016 communicated the petitioner that he would be treated as superannuated after 30.04.2016.

8. It is also argued that the representation of the petitioner dated 08.02.2016 made before the Registrar was entertained *vide* his letter no. 953/16 dated 01.06.2016 and communicated to the petitioner that the University is receiving grant in respect of only two teachers, namely, Dr. Awadhesh Tiwary and Sri Sachchidanand Mishra who are being paid their salary and while making such communication, the University is said to have ignored the letter of the Government dated 27.10.2011 whereby the funds were released in favour of three teachers out of which the petitioner was also one of them, whose



name was also recommended by the College Service Commission. It has further been submitted that since the petitioner was made to retire and accordingly he submitted relevant documents for payment of his due arrears salary and retiral benefits in the background of the fact that he had been working on his post with full integrity, honesty and utmost satisfaction, which was also not paid any heed. The University in the light of statue framed by the Hon'ble Chancellor dated 15.01.2014 came out with a Notification contained in Memo No. 5447-5481/14 dated 22.07.2014 in respect of retiral benefit payable to staffs of affiliated College w.e.f 31.08.2010, even though the issues of this petitioner could not be addressed.

9. Learned counsel next submits that the University in view of the amendment of Bihar State Universities Act, 2015 prepared a list of 30 Teachers + 37 Teachers in total of 67 teachers, who were appointed in affiliated colleges without recommendation of College Service Commission for their regularization by the Selection Committee, in which the petitioner's name was also incorporated and the petitioner made objection against such consideration of his matter by the Selection Committee, as he was already recommended by the College Service Commission and the authority of the University



without appreciating the fact that pursuant to the recommendation of College Service Commission, the Governing Body had already confirmed the service of the petitioner w.e.f 26.01.1980 and still, the Additional Secretary *vide* Memo No. 1726 dated 23.09.2018 rejected the proposal of the University dated 19.05.2018, whereas the rejection order passed by the Additional Secretary with respect to the list prepared for regularization by the University dated 19.05.2018, is not applicable to the petitioner, in view of the fact that his name was already recommended by the College Service Commission, which had the statutory authority to make such recommendation and further the approval had already been granted to such recommendation which could not have been tinkered by the University and as such subsequent action was unwarranted insofar as this petitioner is concerned and in humble submission of the learned counsel for the petitioner, the impugned order is fit to be set aside. Accordingly, the authorities are required to be issued appropriate directions for payment of arrears of salary and as also to settle the retiral benefits as applicable in law.

Submissions of the State

10. On the other hand, learned senior counsel



representing the State has submitted that syndicate of the University in its meeting dated 30.11.2004 has rejected the proposal of the College regarding approval of appointment, as the petitioner was not having requisite qualification (55% marks in M.A) for appointment of Lecturer, because the petitioner was having 45% of marks and as per the statute the requisite qualification for the post was of high second class. Lastly, it has been submitted that since the appointment of the petitioner was not valid, therefore, the order passed in *CWJC No. 250 of 2019 (Balram Pandey v. The State of Bihar)* and in *CWJC No. 808 of 2019 (Ghanshyam Jha & Ors. v. The State of Bihar & Ors)* is not applicable in this case.

Submissions of the University

11. Learned counsel for the University submits that the petitioner was appointed in 1983 but the Bihar College Service Commission refused the concurrence because the petitioner did not possess the requisite qualification at the time of his initial appointment.

REJOINDER

12. To such submission/stand of the learned counsel for the State and the University, learned counsel for the petitioner submits that the petitioner had a second division and



the stand of the State that his appointment was void *ab initio*, is most unfounded, in view of the statute for regularization of services framed for purely temporary lecturers appointed on or before 20th February 1982 and the Rule 1-b clearly shows that the only requirement is second Class Master's degree, which could be inferred from the statute for regularization as approved by the Chancellor *vide* letter no. BSU-25/85-283-GS(1) dated 29.01.1986. and therefore, the stand of the State is totally misplaced and the case of the petitioner is equally covered by the Judgment of ***Balram Pandey (Supra)***.

Civil Writ Jurisdiction Case No. 3825 of 2019

13. With respect to CWJC No. 3825 of 2019, the following relief(s) has been sought for:-

“(1) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred to as "the University") to take steps towards making payment of current salary along with arrears of salary in favour of the petitioner that has not been made to her since June, 2011 without there being any just and valid reason in support thereof;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the University



to make payment of penal interest over and above the amount of arrears of salary that may be found to be admissible in favour of the petitioner as without there being any just and valid reason, the payment of salary in favour of the petitioner has been withheld since June, 2011 in the most illegal and arbitrary manner and solely on account of highhandedness and illegal disposition on the part of the concerned respondent authorities under the University;

(iii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

Submissions of the petitioner

14. Learned Senior counsel for the petitioner submits that the petitioner was working in the capacity of Assistant Professor in Hindi at Sri Chhatradhari Sanskrit College, Gopal Mandir, Hathua, District-Gopalganj, which is an affiliated College under the University and receives full deficit grant from the State Government for the purposes of making payment of salary to the teaching as well as non-teaching employees working at the College. It is the case of the petitioner that she was initially appointed against the post of Lecturer in Hindi at the College *vide* letter dated 10/02/1981 issued by the Secretary of the College on a temporary basis, pursuant to which the petitioner is said to have submitted her joining at the College and started discharging duties in the capacity of Lecturer.



15. It is further submitted that in order to make regular appointment an advertisement was issued in the Hindi daily "Aryavarta" in March, 1981, inviting applications from eligible candidates for consideration of their cases for appointment against the post of Lecturers in different subjects at the College, including Hindi. This petitioner had also submitted her application in prescribed form for consideration of her case and on verification of the original mark-sheets and certificates for participation in the interview, the appointment against the post of Lecturer in Hindi was made by the experts on Selection Committee and pursuant to such recommendations against the post of Lecturer in Hindi at the College, the Secretary of the College dated 11.05.1981 informed with respect to her appointment as against the post of Lecturer in Hindi at the College in continuity of her initial appointment against the said post made on 10.02.1981. In the meantime, *vide* letter dated 08/11/1985 issued by the University, by which the Secretary of the College was informed with respect to the approval of the University in the matters of appointment of different teaching as well as non-teaching employees working at the College and amongst other persons, the name of the petitioner found place at serial no. 4 and the date of her initial appointment had been



indicated as 10/02/1981.

16. Learned senior counsel next submits that while the petitioner was continuing in the said capacity, the concerned authorities under the University duly approved her appointment and accordingly, directions were issued for the purpose of payment of salary in favour of the petitioner that was commenced from the month of April, 1985 and subsequently *vide* letter dated 19.02.1987 issued by the concerned authorities of the erstwhile Bihar College Service Commission, Patna, by which the said Commission communicated its temporary approval for appointment of different teachers working at the College, which also included the name of the present petitioner and the said letter dated 19/02/1987 is appended as Annexure-5 to this writ petition. While the petitioner continued to discharge her duties in the said capacity of Lecturer in Hindi at the College and on the basis of the decision taken by the concerned authorities at the College, the University duly approved making payment of salary in favour of the petitioner and as such, from the budgetary allocations made by the University for making payment of salary to the teaching as well as non-teaching employees working at the College, amongst other persons, the petitioner was continuously paid her salary as per her



entitlement with the benefits of revision of salary under UGC revised pay scales, on the basis of the decisions taken by the State Government from time to time.

17. Learned Senior Counsel next submits that pursuant to the decisions taken by the Syndicate of the University during its meeting held on 05.12.2009, the services of the petitioner in the capacity of Lecturer in Hindi at the College were confirmed w.e.f 01.04.1985 and an office order dated 14.08.2010 to that effect was issued by the concerned authorities under the University. Pursuant thereto, her salary in the UGC revised pay-scale was implemented from 01.01.1986, according to which, the petitioner was made entitled to her salary in the pay-scale of Rs. 8000-13,500/- during pendency of the writ petition filed by this petitioner *vide* CWJC No. 3890 of 2004. The writ petition so filed was subsequently, disposed of with certain observation and in the light of such observation, the University took necessary steps for fixation of salary as per her entitlement and accordingly, necessary fixation forms were also issued by the pay fixation committee of the University and benefits of revision of salary in the prescribed pay-scale were also extended in favour of the petitioner. Despite there being revision from time to time in favour of this petitioner by taking



appropriate decisions by the concerned authorities of the University, for no prudent reason, the payment of salary was stopped from June, 2011 and in meantime, a letter dated 03.05.2013 was issued by the concerned authorities under the Education Department of the State Government by which the Registrar of the University was informed that on account of the appointments of altogether 61 teacher working at different colleges under the University having not been made on the basis of the recommendation of the erstwhile Bihar College Service Commission, Patna, their names had not been included in the budgetary allocations for the financial year 2011-2012 and accordingly, the Registrar of the University was directed to place the matter before the concerned Selection Committee to be constituted by the University for the purpose of confirmation of their services. Subsequently, letter dated 13.06.2013 was issued by the Registrar of the University by which the concerned authorities of the College were informed regarding the aforesaid letter dated 03.05.2013 issued by the State Government, by which the Colleges were directed to take necessary steps and notwithstanding, the fact that the aforesaid office order dated 14.08.2010 issued by the University, the services of the petitioner had already been confirmed by the



University, pursuant to the decision taken by the Syndicate of the University.

18. It has next been submitted that on account of order dated 08.11.2010 passed in CWJC No. 3890 of 2004 by the Co-ordinate Bench, certain coercive actions were sought to be taken against the petitioner by the concerned authorities under the University and the petitioner was ultimately coerced to move to this Court by filing appeal *vide* L.P.A. No. 859 of 2013 against the aforesaid order dated 08.11.2010, which is said to have been allowed *vide* order dated 24.02.2014, by which the order dated 08.11.2010 passed in CWJC No. 3890 of 2004 as well as one consequential order dated 27.01.2012 issued by the University were also set aside. Thereafter, in furtherance of the direction contained under letter dated 13.06.2013 issued by the University, the Governing Body of the College took steps towards constitution of the Selection Committee for the purposes of recommending the names of Lecturers working in different subjects at the College, so that their services could be confirmed after recommendations from the Selection Committee to be constituted in the said respect. In terms of the provisions contained in Section 57(A) (6) of the Bihar State Universities Act, 1976 (for short 'the Act, 1976') steps were taken for



constitution of the Selection Committee by the College for considering cases of different teachers working at the college including the present petitioner for making recommendations in their favour for confirmation of their services in their respective capacities as teachers at the College and in furtherance thereof, a letter dated 27.02.2015 was issued by the Registrar of the University, by which, names of three experts in the subject of Hindi were nominated for constitution of the Selection Committee and the services of the present petitioner were placed before the Selection Committee duly constituted in terms of Section 57(A)(6) of 'the Act, 1976'. During the proceeding of Selection Committee constituted by the College on 28.05.2015, the petitioner's case was recommended for absorption and confirmation of her services in the capacity of Lecturer in the said subject.

19. The entire exercise so carried out by the University clearly shows that in terms of the direction issued by the State Government *vide* letter dated 03.05.2013, the name of the petitioner was recommended for absorption and confirmation of services in the capacity of Lecturer in the said subject in accordance with law and as such, she is clearly entitled for payment of salary and consequential benefits, which



is said to have been denied since June, 2011.

20. Learned Senior Counsel for the petitioner next submits that notwithstanding the fact the Selection Committee duly constituted by the University having already approved the case of the petitioner for confirmation and absorption of her services in the respective subject in accordance with law, pursuant to the decision dated 09.12.2017, still the case of the petitioner was once again placed before the Selection Committee constituted with regard to consideration of her case for absorption and the Selection Committee so constituted in terms of provision of Section 57(A)(6) of 'the Act, 1976' where, the case of the petitioner placed for consideration, which considered the case of the petitioner in its meeting dated 17.02.2018 and her name was again recommended for absorption in the service in capacity of Assistant Professor in Hindi subject w.e.f. 10.02.1981 and the Secretary of the College, *vide* letter dated 05.03.2018 had been requested to take necessary steps for making payment of salary in favour of the petitioner, which was withheld/not paid since June, 2011 and despite allocation of necessary funds made by the University for the purpose of making payment of salary, no action in relation to the payment of salary in favour of the petitioner was made.



21. The entire action of the University as well as the State Government is in teeth of the provisions so incorporated for making selection and the selections which have been made in accordance with law with respect to this petitioner and for no prudent reason, same has not been considered and, therefore, learned Senior Counsel prays for appropriate directions to be issued keeping in mind that all such Selection Committees at various levels from time to time, which are said to have been constituted, have appropriately recommended the name of this petitioner and there is no reason before the authorities either for the University or for the State not to extend such benefits, for which this petitioner is legally entitled, much less for the salary and as also for the other benefits on superannuation.

Civil Writ Jurisdiction Case No. 10787 of 2019

22. The petitioners have preferred this writ petition for the following relief(s):-

“(i) Issuance of a direction, order or writ including writ in the nature of mandamus commanding the respondent authorities under the Education Department of the State Government as well as Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred as "the University") to take towards making



payment of current salary along with arrears of salary in favour of the petitioners that have been withheld since December, 2018 without there being any just and valid reason in support thereof notwithstanding the fact that the present petitioners have continuously discharging their duties in their respective capacities as Assistant Professors at Satya Narayan Sankrit College, Chhatauni, Madhubani (hereinafter referred to as "the College");

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government to take steps towards making available necessary funds in favour of the University so as to ensure payment of salary in favour of the petitioners that has been withheld since December, 2018 in the most illegal and arbitrary manner;

(iii) Issuance of a direction, order or writ including writ in the nature of mandamus commanding the concerned respondent authorities to make payment of penal interest over and above the amount of salary along with arrears of salary that may be found to be admissible in favour of the petitioners as without there being any just



and valid basis, the payment of salary in their favour has been withheld since December, 2018 despite the fact that the petitioners have continuously discharging duties in their respective capacities as Assistant Professors in the services of the College;

(iv) Issuance of a direction, order or writ including writ in the nature of certiorari quashing office order dated 23/09/2018 issued by the concerned authorities under the Education Department of the State Government, by which, in the most illegal and arbitrary manner, while assigning completely misconceived and baseless reasons, letter dated 09/12/2017 bearing letter no. 2024 issued by the Education Department of the State Government had been sought to be withdrawn and the proposal sent by the University by its letter dated 09/05/2018 with respect to confirmation of services of 67 teachers was rejected by the State Government;

(v) Any other relief/reliefs that the petitioner/petitioners may be found to be entitled to in the facts and circumstances of the present case.”



Submissions of the petitioners

23. Learned Senior Counsel for the petitioners submits that petitioners no.1 holds the substantive post of Assistant Professor in Vyakaran at the College, while the petitioner no.2 is working in the capacity of Assistant Professor in Jyotish in the services of the College in accordance with law, which would be evident from the fact that on the basis of local advertisement dated 12.01.1977 issued by the College inviting applications from eligible candidates for consideration of their cases for appointment against the posts of lecturers in the subjects of Vyakaran and Jyotish, the petitioners are said to have submitted their applications for consideration on the said posts and upon having participated in the interview conducted by the Selection Committee and on the basis of recommendation made by the Selection Committee *vide* letter dated 22.05.1977, the petitioners were informed with respect to the appointment against the posts in the respective subjects and pursuant thereto, they submitted their joining.

24. Learned Senior Counsel for the petitioners next submits that while the petitioners were continuously discharging their duties in the capacity of lecturers in their respective subject at the College, an advertisement dated 10.09.1980 was again



published by the College in the Hindi Daily 'Aryavarta' inviting applications from eligible candidates for consideration of their cases for appointment against the posts of lecturers in different subjects at the College and amongst other persons, the petitioners, once again submitted their applications in the prescribed manner for being considered for appointment against the respective posts and in the respective subjects and also participated in the process of selection conducted pursuant to the said advertisement has accordingly recommended for appointment.

25. Learned Senior Counsel next argued at this stage that the College is affiliated to the University and enjoys the status of being a full deficit grant College and in terms of the provisions of Section 57(A) of 'the Act, 1976', the appointment of the teachers at the College was to be made on the basis of the recommendations made by the concerned authorities under the erstwhile Bihar College Service Commission, Patna and till such time the recommendations of the said Commission were received, the persons appointed in the capacity of teachers were to be allowed to continue and, as such, on the basis of approval granted by the University in relation to their appointments. The petitioners were continuously discharging the duties in the



capacity of lecturers in their respective subjects at the College and *vide* letter dated 19.01.1981 issued by the Registrar of the University, the Secretary of the College was informed with respect to the approval of the University regarding appointment and continuance of different teachers, which also included, amongst other persons, the name of the present petitioners and the period of approval granted by the University regarding different teachers finds mention in letter dated 19.01.1981, which is appended with the writ petition as Annexure-5.

26. At this stage, learned Senior counsel submits that by different letters issued by the concerned authorities under the University, the period of approval granted in respect of continuance and appointment of the petitioners were extended from time to time and similarly, the said extension was also made in favour of petitioner no.2 and the relevant extension orders issued with respect to these petitioners are appended as Annexure-6 and Annexure-8 series to the writ petition respectively.

27. It has next been submitted that the present petitioners have continuously been discharging their duties as lecturers in the respective subjects at the College and even the concerned authorities of the University had granted the approval



in the matters of appointment and since the services had not been confirmed despite recommendation made by the erstwhile Bihar College Service Commission, the matter with respect to confirmation was placed before the Syndicate of the University in its meeting held on 05.12.2009 by Agenda No. 5 and the Syndicate decided to take steps towards confirmation of the services of a number of teachers working in different affiliated Colleges appointed between 16.08.1976 to 28.02.1980 subject to fulfillment of the requirements as indicated in the said decision of the Syndicate and on the basis of decision taken by the Syndicate of the University during its meeting held on 05.12.2009, the services of the present petitioners were confirmed in their respective capacities as lecturers in Vyakaran and Jyotish at the College with effect from 01.04.1980 and from time to time pay fixations were also made with appropriate revision of salary and petitioner no.2 was also granted promotion against the post of Reader in Jyotish in the services of College under University w.e.f 01.04.1990, while both the petitioners amongst others were continuously discharging duties, on the post of teachers in their respective subjects and during the meeting of Syndicate of University held on 01.11.2013 by Agenda No. 5, decision for regularization / confirmation of services of altogether



28 teachers working in different Colleges affiliated to the University was taken and the petitioners no. 1 and 2 also find place in the said order of regularization at Serial No. 26 and 27 and as such, *vide* office order dated 21.11.2013, the services of these petitioners were once again confirmed/regularized with effect from 01.04.1980.

28. Learned Senior counsel submits that in the meantime, the Bihar State Universities (Amendment) Act, 2015 was effected by the Legislature of the State of Bihar by which an amendment in Section 57(A) of the Bihar State Universities Act, 1976 was introduced by which a new Sub-Section, namely Sub-Section (6) was added after Sub-Section (5) to Section to Section 57(A), which is reproduced as under:-

"(6) The Selection Committee, subject to this Act, will complete the scrutiny of the cases of the teachers of affiliated degree Colleges appointed prior to 19/04/2007, without the recommendation of the Bihar College Service Commission on the basis of qualification in force at the time of appointment of such teachers up to 31/03/2017, otherwise such appointments will not be treated valid. Thereafter the Governing Body of the College will accept the names recommended by the Selection



Committee, which shall be finally approved by the concerned University.

Distribution of the amount of grant sanctioned by the State Government will be made amongst the teachers in the concerned affiliated degree Colleges by its Governing Body up to 31/03/2017."

29. It has further been stated that upon coming into existence of the aforesaid Bihar State Universities (Amendment) Act, 2015, notwithstanding the fact that the services of the present petitioners had already been confirmed pursuant to the decision taken by the Governing Body of the College on the basis of the recommendation made by a Selection Committee constituted at the College and accordingly, the same had also been approved, and *vide* letter dated 09/12/2017, issued by the Director, Higher Education, Education Department, Bihar, Patna, by which the Registrar of the University was instructed to send a proposal for making payment of salary in favour of altogether 37 teachers working at different Colleges affiliated to the University after obtaining necessary recommendation of the Selection Committee to be constituted in terms of section 57(A) (6) and after obtaining approval of the same by the competent authority under the University.

30. It has next been submitted by the learned Senior



Counsel that in the manner as aforesaid, it is manifest that the only infirmity shown by the State Government *vide* its letter dated 09/12/2017 was not a substantive infirmity which was procedural in nature and the same could have been cured by placing the same before the Selection Committee constituted in terms of 57(A)(6), which steps were subsequently undertaken.

31. It has also been submitted that thereafter, in furtherance of the directions contained under the aforesaid letters issued by the concerned authorities under the State Government as well as the University, a Selection Committee was constituted at the College in terms of the provisions contained under section 57(A)(6) of the Bihar State Universities Act as amended by the Bihar State Universities (Amendment) Act, 2015 and thereafter, the recommendations made by the Selection Committee, which in turn were approved by the Governing Body of the College and were placed before the concerned authorities of the University for the needful.

32. Pursuant thereto, during the meeting of the Syndicate of the University held on 24/03/2018, by agenda no. 18.1.4, it was *inter alia*, decided to approve and confirm the services of the present petitioners, amongst other persons, in terms of the provisions contained under Section 57(A)(6) of the



Bihar Universities (Amendment) Act, 2015.

33. In view of the approval and confirmation of services of the present petitioners having been made by the Syndicate of the University during its meeting held on 24.03.2018, a notification by the University dated 09.05.2018 was issued by which the services of the present petitioners were confirmed w.e.f 01.04.1980 in their respective subjects in terms of the provisions contained under Section 57(A)(6) of the Bihar State Universities (Amendment) Act, 2015.

34. Learned Senior counsel further submits that the authorities under Department of Education issued an office order dated 23.09.2018, by which in a most arbitrary and illegal manner and by assigning misconceived and baseless reason, the letter no. 2024 dated 09.12.2017 was sought to be withdrawn, in furtherance of which the University after having obtained the recommendation of the Selection Committee constituted in terms of Section 57(A) (6) of the Bihar State Universities (Amendment) Act, 2015, had sent a proposal for confirmation of services of such teachers along with a request for making payment of salary to them, which deserves to be interfered with by the Hon'ble Court for directing payment of salary in favour of the petitioners, who have not received the same since the



month of December, 2018.

Civil Writ Jurisdiction Case No. 10239 of 2019

35. This writ petition has been filed for following the relief(s):-

“(i) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government to take steps towards allocating necessary funds to Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred to as "the University") to ensure payment of salary in favour of the petitioner along with arrears of salary that have not been paid to the petitioner since June, 2011 in the most illegal and arbitrary manner;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government and the found to be a admissible in favour of the petitioner, which had been illegally not paid to him since June, 2011;

(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned



respondent authorities under the Education Department of the State Government to make payment of penal interest over and above the amount of salary along with arrears of salary as may be found to be admissible in favour of the petitioner, which had been illegally not paid to him since June, 2011

(iv) Issuance of a declaration holding that the petitioner is entitled for being paid salary on a regular basis and also for payment of arrears of salary in lieu of the salary that has not been paid to him since June, 2011 notwithstanding the fact that he has been continuously discharging the duties in the capacity of Principal of Rajeshwar Thakur Sanskrit Mahavidyalaya, Gorhiyari Raghapur in the district of Darbhanga (hereinafter referred to as "the College");

(v) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

36. Further, through Interlocutory Application No. 01 of 2023 additional relief(s) were incorporated in the main relief which are also being incorporated in the main relief of the writ petition.



“(i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the office order dated 23/09/2018 bearing memo no. 1726 issued by the concerned authorities under the Education Department of the State Government, by which the proposal for confirmation of services of altogether 67 teacher including the present petitioner sent by the University has been rejected;

(ii) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the letter dated 05/11/2018 issued by the concerned authorities under the Education Department of the State Government, by which the Registrar of the University was informed that the proposals made by the University for confirmation of services of 67 teachers has been rejected and accordingly, the proposal had been returned;

(iii) Any other relief/reliefs that the petitioner may be found to be entitled to.”

Submissions of the petitioner

37. Learned senior counsel for the petitioner submits that the petitioner was initially appointed as a Lecturer in Jyotish at the College pursuant to a decision taken by the Governing Body and he joined the post on 01.04.1980. While he



was discharging his duties, the authorities under Human Resource Development Department of the State Government issued a letter dated 18.09.1992 (Annexure-1) stopping the release of funds to the College till the pendency of certain information so sought from them. In response to which, the Principal of the College *vide* letter dated 22.10.1992 (Annexure-2) furnished the necessary information to the concerned authorities demonstrating that the College fulfilled all terms and conditions and requested to cancel the aforesaid letter dated 18.09.1992, by which the salaries had been stopped. It has next been submitted that when no action was taken by the concerned authority of the State Government, the petitioner along with other similarly situated persons moved this Court by filing the writ petition being CWJC No. 4126 of 1994 with a prayer to quash the letter dated 18.09.1992. The said writ petition got disposed of *vide* order dated 28.06.1994 (Annexure-3) and the State Government was directed to pass the necessary orders after examining the information furnished by the College by a reasoned and speaking order.

38. Since no action was taken within the time so fixed by the Hon'ble Court, the petitioners were constrained to file contempt petition being MJC No. 1575 of 1994, which was



disposed of in the light of the fact that directions have been issued for making payment of salary in favour of some of the persons working at the College by reserving liberty to the petitioner that if they were aggrieved by the actions of the concerned authority of the State and the University, they could challenge the same.

39. It has been next submitted that in view of the order passed by the Hon'ble Court in the writ petition as well as in the contempt petition, the salary was regularized but arbitrarily it was withheld/stopped against from the month of June, 2011 without assigning any reason. Subsequently, pursuant to letter dated 27.11.2012 (Annexure-7), a Selection Committee was constituted which duly resolved to confirm the services of different teachers working at the College including the present petitioner. On the recommendation, so made, was placed before the Syndicate on 13.12.2013 leading to the issuance of Memo No. 1877 dated 19.12.2013 absorbing the services w.e.f 01.04.1980. It has next been submitted that the Registrar forwarded a copy of this officer order to the Director, Higher Education through letter no. 20.12.2013 requesting the release of necessary funds to ensure for making payment of salary to the teachers, whose salary was withheld since June,



2011 but despite repeated reminders including the letter dated 22.07.2015, the State did not release the fund for payment of salary.

40. It has next been submitted that after the Bihar State Universities (Amendment) Act, 2015 which introduced Section 57(A)(6), the matter was placed before the duly constituted Selection Committee under the recommended statute. The Committee met on 16.02.2018 and unanimously recommended the petitioner for permanent absorption on the post of Assistant Professor w.e.f 01.04.1980. The recommendation so made was placed before the Syndicate on 24.03.2018, where it was finally approved under Agenda No. 18.1.4 (Annexure-15). It is the stand of the petitioner that a list of 37 teachers including the petitioner was forwarded to the State Government through letter dated 07.04.2018 (Annexure-16) requesting the release of funds for salary. Learned counsel for the petitioner submits that despite further intervention sought by the petitioner by filing CWJC No. 444 of 2018, which got disposed of on 11.05.2018 with a direction to the University as well as to the State to see that all the payments are made to the petitioner both arrears as well as current by fixing a time, was also not taken care of by the State Government and had



arbitrarily rejected the petitioner's proposal by issuing office order dated 23.09.2018 (Annexure-20), which included the proposal for 67 teachers including the petitioner on erroneous ground that the State Govt. lacked power to regularize the teachers under Sections 57(A), 57(B) and 57A(6).

41. The development which is said to have taken place during the pendency of the writ petition by passing the order as contained in Memo No. 1726 dated 23.09.2018 and letter dated 05.11.2018 were sought to be challenged by filing Interlocutory Application bearing 01/2023, which was allowed and accordingly, the additional prayer seeking quashing of the letter dated 23.09.2018 and letter dated 05.11.2018 had also been taken together for consideration along with the main relief sought by the petitioner.

Civil Writ Jurisdiction Case No. 10722 of 2019

42. The present writ petition has been preferred for the following relief(s):-

(i) Issuance of a direction, order or writ including writ in the nature of mandamus commanding the concerned authorities in the Education Department of the State Government as well as Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, (hereinafter referred to as "the



University") to take steps towards making payment of current salary along with arrears of salary that has not been paid to the petitioner since December, 2018 without there being any just and valid reason in support thereof:

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of State Government to make available necessary grants in favour of the University so as to ensure payment of salary in favour of the petitioner that has not been paid to him since December, 2018 notwithstanding the fact that the petitioner has been continuously discharging his duties in the capacity of the Assistant Professor, in the Department of Jyotish at Sanskrit College, Rosera, Samastipur, (hereinafter referred to as "the College");

(iii) Issuance of a declaration holding that the petitioner is entitled for being paid his salary on regular basis as per his entitlement in accordance with law and the action on the part of the concerned respondent authorities under the Education Department of the State Government in not making available necessary grants for making payment of salary to the petitioner is



clearly untenable in eye of law, the same being in blatant disregard and violation of Articles 14 & 21 of the Constitution of India;
(iv) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

Submissions of the petitioner.

43. Learned senior Counsel for the petitioner submits that despite the petitioner's service having been duly regularized by the University, the State has unlawfully withheld his salary since December 2018 in violation of the law and directions issued by this Court.

44. It is submitted that the Petitioner was appointed as a Lecturer in *Jyotish* at Kameshwar Singh Darbhanga Sanskrit College (“the College”) pursuant to the College's advertisement dated **07.02.1978** (Annexure-1). The College's Governing Body approved his appointment on 21.01.1979, and the Principal conveyed regarding the appointment of the Petitioner *vide* letter dated 25.01.1979 (Annexure-2), directing him to join the post. The Petitioner joined on 09.02.1979 and commenced discharging his duties as Lecturer in *Jyotish*.

45. It is next submitted that University thereafter approved the Petitioner's initial appointment and continuance



from 09.02.1979 to 13.12.1981 through its Registrar's letter dated 01.02.1982 (Annexure-3). Thereafter, on the basis of various University communications, the Petitioner's service was periodically continued in accordance with law (Annexure-4 Series). Notably, by letter dated 05.04.2006 from the State Government's Human Resource Development (Higher Education) Department, the Registrar was informed that the College had been granted permanent affiliation (Annexure-5).

46. Pursuant to the decision of the University's Syndicate in its meeting held on 05.12.2009, the Petitioner's service was formally confirmed as Lecturer in Jyotish w.e.f. 01.04.1980 by Office Order dated 19.08.2010 (Annexure-6). Later, the State Education Department issued a letter dated 03.05.2013 (Annexure-7) directing the University to constitute fresh Selection Committees for lecturers, whose salary had been unpaid due to non-allocation of funds. Complying with this directive, the College Selection Committee considered the Petitioner's case, and the University's Syndicate again regularized his services as Lecturer (effective from 01.04.1980) and accordingly, the University by order dated 04.12.2013 (Annexure-8) confirmed the regularization. The Registrar forwarded the confirmation/appointment to the State



Government *vide* letter dated 20.12.2013 (Annexure-9).

47. After the Bihar State Universities (Amendment) Act, 2015 came into force, the State issued a letter dated 09.12.2017 (Annexure-9) requiring the University to constitute a Selection Committee under Section 57(A)(6) of the Act and submit recommendations for payment of salaries of teachers in deficit-aided colleges. The Registrar, by letter dated 20.12.2017 (Annexure-10), instructed the College to comply. In accordance to the same, a Selection Committee meeting was held on 16.02.2018 (Annexure-11), which examined the Petitioner's appointment history and unanimously recommended his confirmation/regularization as *Assistant Professor* (formerly Lecturer) w.e.f. 01.04.1980. The University's Syndicate approved the recommendation in a meeting held on 24.03.2018, and the University issued Notification dated 09.05.2018 (Annexure-12) confirming the Petitioner's services as Lecturer (Jyotish) w.e.f. 01.04.1980.

48. Learned Senior Counsel for the petitioner further submits that the State Government suddenly intervened and Office order dated 23.09.2018 (Annexure-13) whereby the proposal of the University for confirmation of the 67 teachers including the petitioner under Section 57(A)(6) *vide*



Notification dated 09.05.2018 was rejected. No reasons of substance were communicated. Thereupon, despite having discharged his duties without interruption, the payment of petitioner's salary were withheld by the State from December 2018 onwards. The College Principal drew the matter to the University's notice by letter dated 16.01.2019 (Annexure-14) requesting release of the salary. The Petitioner also submitted a representation dated 18.01.2019 (Annexure-15) to the Vice-Chancellor seeking payment of his withheld salary and arrears. The Registrar later sought a legal opinion dated 10.01.2017 by the Learned Advocate General, who *vide* letter dated 25.03.2019, Annexure-16, opined that no further Government approval was required under Section 57(A)(6) and requested that necessary funds be made available, so that the salaries withheld could be paid.

49. Learned Senior Counsel further submits that the Petitioner invokes Articles 14, 21 and 23 of the Constitution, and Section 57(A)(6) of the Bihar State Universities Act, 1976 (as amended) to seek a mandamus directing payment of his current and arrears salary from December 2018 onward.

50. To conclude, learned Senior Counsel submits that he has continuously worked as a lecturer/assistant professor and



was lawfully regularized; the State's rejection order is arbitrary and illegal; and withholding his salary violates his fundamental right to livelihood (Article 21) and amounts to "forced labour" (Article 23) on the strength that the petitioner's regularization was carried out strictly in terms of law. The Selection Committees and Syndicate have approved his appointment and service under Section 57(A)(6) of the Act, and the University issued a notification to that effect. It is further argued that the State's office order dated 23.09.2018 rejecting the confirmations is unfounded and was issued on "patently frivolous and untenable grounds". The Petitioner points out that the College in question is a "full deficit grant" affiliated college, meaning that the State is statutorily required to pay the salaries of duly appointed teachers from grant-in-aid funds. Learned Senior Counsel further argues that his appointment and continuance are valid under the statutory scheme, and consequently he is entitled to salary for the period it was withheld. The refusal to pay salary is arbitrary, discriminatory (violation of Article 14) and as also in violation of his right to livelihood under Article 21; non-payment of earned wages also infringes Article 23 (no person can be compelled to work without remuneration). Learned counsel emphasizes that the petitioner has no equally efficacious



alternative remedy, and prays for appropriate relief.

51. The learned Senior Counsel representing the State in all the cases, has taken a fair stand by submitting written notes of argument which is being reproduced as under:-

*“the Hon’ble High Court in **CWJC No. 250 of 2019 (Balram Pandey v. The State of Bihar)** and **CWJC No. 808 of 2019 (Ghanshyam Jha & Ors v. The State of Bihar & Ors.** has been pleased to quash the letter no. 1726 dated 23.09.2018 of the State Government whereby the Education Department, State of Bihar has been pleased to release the grant for the teachers working in the various college under the Sanskrit University and were appointed by the University. It has further been pointed out by the learned Senior Counsel that LPA No. 683 of 2023 and LPA No. 690 of 2023 as well as SLP© No. 023633 of 2025 (State of Bihar v. Ghanshyam Jha & Ors) and SLP© No. 024179 of 2025 (State of Bihar v. Balram Pandey & Ors) preferred by the State Government against the order passed by the Hon’ble Single Judge stood dismissed and as such, the order has attained finality and for the present, the judgments rendered in **CWJC No. 250 of 2019** and **CWJC No. 808 of 2019** has attained finality and the case of this petitioner is covered by the aforesaid judgments.”*



52. Learned Counsel for the University emphasises that the University has complied with all procedures prescribed by law. The University convened the Selection Committee at the College and the Syndicate approved the Petitioner's regularization by issuing respective office order. After the 2015 Amendment, it again obtained unanimous Committee recommendations and the Syndicate's approval was sought for confirming the services of the teachers in question by issuing Notification in this regard accordingly. Pursuant to the approval, the University forwarded the proposals to the State requesting release of necessary fund. It has been specifically submitted that the University is willing and ready to pay the Petitioner's salary, but remains entirely dependent on the State's grant: without the State's sanction of funds, the University has no budget to disburse salaries. The University also remarks that the College's proposal for permanent affiliation was itself rejected by the State in January 2014, which indicates the State's resistance to funding the College. In the absence of State allocation, the University asserts it cannot unilaterally incur expenditure for these salaries.

Consolidated stand/submissions of the State in all the cases.

53. The learned counsel for the State has submitted



that the proposal of the University contained in Memo No. 719 dated 09.05.2018 regarding confirmation of 67 teachers including the petitioner has been rejected and returned back to the University by the State Government *vide* Memo No. 1726 dated 23.09.2018. It has further been contended that Section 57(A) (6) of the Bihar State Universities (Amendment) Act, 2015 is not applicable for the teachers of affiliated college getting benefit of deficit grant in aid rather the same is applicable for affiliated college getting performance based grant. However, learned State counsel has fairly submitted that these issues have been considered by the Hon'ble High Court in CWJC No. 250 of 2019 (Balram Pandey v. The State of Bihar) and CWJC No. 808 of 2019 (Ghanshyam Jha & Ors v. The State of Bihar & Ors. and on consideration of entire facts and materials, has been pleased to quash the letter no. 1726 dated 23.09.2018 of the State Government, whereby the Education Department, State of Bihar has been directed to release the grant for the teachers working in the various college under the Sanskrit University and were appointed on the recommendation of the Selection Committee, which was approved by the University. It has further been pointed out by the learned Senior Counsel that LPA No. 683 of 2023 and LPA No. 690 of 2023 as



well as SLP© No. 023633 of 2025 (State of Bihar v. Ghanshyam Jha & Ors) and SLP© No. 024179 of 2025 (State of Bihar v. Balram Pandey & Ors) preferred by the State Government against the order passed by the Hon'ble Single Judge stood dismissed and as such, the judgments rendered in ***CWJC No. 250 of 2019*** and ***CWJC No. 808 of 2019*** has attained finality and the case of the petitioners are covered by the aforesaid judgments of the Co-ordinate Bench.

Consolidated stand/submissions of the University in all the cases.

54. It has been submitted on behalf of the University that the University duly constituted a Selection Committee which recommended the petitioner's regularization and the same was approved by the respective Syndicates. The Registrar forwarded the proposal for requesting necessary funds. However, the State Government rejected the proposal. The University further points out that the proposal for permanent affiliation of the College was also rejected by the State. As such, in the absence of State allocation, the University expresses its inability to make payment.

55. Grounds of rejection with respect to affiliated Colleges.

- (i) Syndicate of the University in its meeting dated



30.11.2004 rejected the proposal of the college regarding approval of appointment in respect of petitioner, Dr. Surendra Prasad Dwivedi (CWJC No. 3653 of 20169), as the petitioner was not having requisite qualification (55% marks in M.A.) for appointment of Lecturer rather he was having 45% of marks. Therefore, not eligible for appointment as per Statute as he was not having requisite qualification of high second class.

(ii) Section 57(A) (6) is not applicable for the teachers of affiliated college getting benefit of deficit grant in aid rather the same is applicable for affiliated college getting performance-based grant

(iii) Recommendation for appointment were not made by Bihar College Service Commission under the provisions of Bihar State Universities Act, 1976.

(iv) The proposal of the University contained in resolution bearing memo no.719 dated 09.05.2018 regarding confirmation of service of 67 teachers including the petitioner has been rejected and returned back to the University by the State Government *vide* letter no. 1726 dated 23.09.2018.

Consideration

56. From the pleadings of the parties, it is quite evident that the impugned orders are common in all the writ



petitions of the affiliated colleges, which seeks quashing of Memo No. 1726 dated 23.09.2018 whereby the Education Department, State of Bihar has refused to release the grant for the teachers, who were working in various colleges in the Sanskrit University, who are said to have been appointed by the University and the recommendations of the Selection Committee made in the case of petitioners of all the writ petitions, were appointed by the Governing Body of the respective colleges which were placed before the Statutory Body of the University for consideration which further confirmed their services through respective decisions referred through the provisions prescribed as per the amendment having been effected in Bihar State Universities (Amendment) Act, 2015 with the introduction of Section 57(A)(6) by making amendment in 57(A) of the Bihar Universities Act, 1976.

57. It is apt to state that the Government of the State as well as the University that the petitioner of CWJC No. 3653 of 2019 (Dr. Surendra Prasad Dwivedi v. the State of Bihar & Ors) has a second division and the appointment of the petitioner is void ab initio, is totally unfounded in view of the statute for regularization of services framed for purely temporary lecturers appointed on or before 20th February 1982 and the Rule 1-b



clearly shows that the only requirement is second Class Master's degree, which could be inferred from the statute for regularization as approved by the Chancellor *vide* letter no. BSU-25/85-283-GS(1) dated 29.01.1986. and therefore, the stand of the State is totally misplaced and the case of the petitioner is equally covered by the Judgment of ***Balram Pandey (Supra)***.

58. A Co-ordinate Bench of this Court in ***CWJC No. 250 of 2019 (Balram Pandey v. The State of Bihar & Ors)*** along with its analogous case being ***CWJC No. 808 of 2019 (Ghanshyam Jha & Ors. v. The State of Bihar & Ors)*** has already dealt with the issues *in extenso* and the relevant portion of such consideration are being reproduced as under:-

“.....4. This Court passed an order on 20th August 2019 directing the State to file specific affidavit with regard to the recommendation of the University in C.W.J.C. No. 808/2019. However, the same was not complied with. Again on 05.09.2022, this Court directed the respondents to file the affidavit. Thereafter, an affidavit has been filed by the Deputy Director, Higher Education, Patna stating that the petitioners were appointed as temporary teachers in different colleges under Section 35 (2) of the Bihar State Universities Act 1976 which only provides for appointment for a



period of six months. The same has to be continued only after further approval from the State. The University in consultation with the management of the colleges allowed them to continue the petitioners and salaries were paid to them up to the year 2011, when it was brought to the knowledge of the State Government the payment of salaries for such teachers was stopped. It is further stated that so far as amendment made under Section 57(A)(6) of the State Universities Act is concerned the same is to extend the benefits to teachers of affiliated colleges which are being provided grants taking into consideration the performance of the students appearing in the examination and the said amendment was not meant for the teachers of deficit grant affiliated colleges. It is asserted by the State that provisions of Section 57(A)(6) would have no application relating to the teachers working in the colleges which are receiving deficit grant-in-aid and therefore, the request made by the University even after regularizing their services was not acceptable to the State Government and the letter dated 06.10.2022 has been placed on record to assert that the State grant is not required to be released for such teachers and they could not have been confirmed by the University. A similar stand has been taken by the State in C.W.J.C. No. 250/2019.

5. Learned counsel appearing for the petitioners has invited attention to the Section



57(A)(6) of the Bihar State Universities Act 1976 which has been brought in force from 27th August 2015 to submit that a selection committee was required to be formed for scrutinizing the cases of the teachers appointed without the recommendation of the Commission prior to 19.04.2007 in the affiliated degree colleges on the basis of the qualifications enforced at the time of appointment of six teachers till 31st March 2018. The petitioners who were appointed in the respective colleges cannot be excluded from the said provision on the basis of the nature of grant being issued by the State Government.

6. I have considered the submission. It would be apposite to quote the amendment made in Section 57 (A) of the Bihar Universities Act 1976 notified as on 27th August 2015 :-

*“Preamble :-
Whereas, the State Government has taken a policy to abolish the Vitta Rahit Shiksha Niti and to provide grants to the institutions including degree colleges vide resolution no. 1846, dated 21.11.2008. In course of distribution of grants amongst the teachers of the affiliated.*

2. Amendment in Section 57A of the Bihar Act 23, 1976 –In the Bihar State Universities Act, 1976 (Bihar Act 23, 1976), the following new sub-section (6) shall be added after sub-section (5) of Section 57A of Bihar Act 23 of



1976 :-

“(6) The Selection Committee, subject to this Act, will complete the scrutiny of the cases of the teachers of affiliated degree colleges appointed prior to 19.04.2007, without the recommendation of the Bihar College Service Commission on the basis of qualifications in force at the time of appointment of such teachers upto 31.03.2017, otherwise such appointments will not be treated valid. Thereafter the Governing Body of the college will accept the names recommend by the Selection Committee, which shall be finally approved by the concerned University. Distribution of the amount of grant sanctioned by the State Government will be made amongst the teachers in the concerned affiliated degree colleges by its Governing Body upto 31.03.2017.”

7. It appears that vide gazette notification of Act of 2017, the Section 57(A)(6) was further amended and following provisions were added. The affiliated degree colleges has been added. The amendment which was made in 2017, was on the basis of a Preamble which requires to be noticed. From the perusal of the aforesaid amendments and the Preamble to the amendment made on 4th September 2017, it is apparent that the State Government wanted the Department to scrutinize all the cases of all those working teachers appointed without the recommendation of the Bihar College Service Commission without making any distinction between those who were receiving different kinds



of grants namely the deficit grant or the grant against performance. It is noticed that the Vitta Rahit Shiksha Niti have been abolished by the State Government and therefore, no distinction could have been drawn by the State Authorities in between the teachers who were appointed in colleges which were receiving different types of grants. This Court, further finds that the University has in terms of provisions of Section 57 (A) exercise its power and scrutinize the cases of the petitioners and found them fit to be confirmed on their post. Recommendation for releasing of grant was sent to the State Government vide letter dated 25th March 2019 informing that the teachers have been duly recommended for release of the salary. Opinion of the Additional Advocate General had already also been taken by the University before sending the request for release of grant.

8. However, the Director, Education Department has rejected the request merely mentioning the provisions of Section 57 (A)(6). The letter does not mention any reasons for not releasing the grant. In the circumstances, the Director, Education Department was called by the Court to be personally present in the Court to explain. Whereafter, she is present in the Court and states that since there are two different kinds of grants being released by the State Government, the provisions of Section 57(A)(6) would apply only to the affiliated colleges which are receiving grant for performance and not for those which are receiving grant in deficit. It is further stated that the work of regularizing/confirming the services of the teachers is that of the University and not of the State Government and no approval is required from the State Government for the said purpose.

9. Having heard the Director, this Court finds that the University in its letter dated 25th March 2019 does not request the Director to approve the appointments of the concerned teachers but on the other hand, states that the



University has finally approved their services in terms of Section 57(A)(6) and requests the Department to release their salary.

10. It appears that the State Government and their officials have adopted a stubborn approach and there is complete non application of mind on her part. In spite of their being a direction issued by this Court earlier. In C.W.J.C. No. 444/2018 dated 11.05.2018 (supra), the salary of the teachers who have worked for the University for more than almost thirty years has been withheld from 2011/2012. It is an admitted position that all of them have been performing their duties till their superannuation. Some of them are still working. Article 23 of the Constitution of India provides as under :-

“23. Prohibition of traffic in human beings and forced labour.

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.”

11. In fact no person shall be asked to perform duties without being paid their due salary. No plausible reasons are coming forward for not taking appropriate action at that relevant time to remove these teachers if they were not appointed in accordance with the law. The State Government has not passed any order directing the University to take any steps for removing them and in an



arbitrary illegal manner contrary to the principles and ethos of the Constitution, direction has been issued to withhold the salary. Such action is an anaethema to the ethos of the Constitution as laid down under Article 21 of the Constitution of India. The action is deprecated. This Court has reminded earlier in its order dated 11.05.2018 on similar footings.

However, the State Government and its officials have failed to perform their duties as required and have passed orders without contesting the writ order passed by this Court in appeal. The action is contemptuous. However, instead of proceedings to initiate any contempt proceedings, this Court deems it appropriate to pass specific directions in the present case clarifying the entire position of law. Section 57(A) (6) carved out an exception to Section 57(A). It is to take care of the situation where the concerned colleges had apin view of the statute for regularization of services framed for purely temporary lecturers appointed on or before 20th February 1982 and the Rule 1-b clearly shows that the only requirement is second Class Master's degree, which could be inferred from the statute for regularization as approved by the Chancellor *vide* letter no. BSU-25/85-283-GS(1) dated 29.01.1986. and therefore, the stand of the State is totally misplaced and the case of the petitioner is equally covered by the Judgment of **Balram Pandey (Supra)**.pointed through their governing body teachers in a situation where the same were not available by the Commission. Said appointments were approved by the concerned University and they continued to perform their duties and were also being granted their due salary under the U.G.C. pay scale. It appears that in 2011, 2012, the State officials arose from a slumber and objected to their appointment on the ground that their appointments had not been recommended by the concerned Commission. In 2000, the issue was taken up in Legislative Assembly and an amendment act was brought into force by issuing a notification on 27th August



2015 which provided for scrutiny of cases of teachers of affiliated degree colleges appointed prior to 19.04.2007. The distinction on the basis of different grants was not mentioned in the amendment. However, the State Authorities have proceeded to carve out the distinction between the two. Admittedly, the colleges where the petitioners were performing their duties are affiliated to the University. In view thereof, the scrutiny of their cases was required to be done in terms of the amendment made on 27th August 2015. It appears that the University has conducted that exercise and has made recommendations but the State Authorities did not accept it on a ground that the aid released is under the deficit grant and not under the grant against performance. Although, such a submission has been made before this Court and in the counter-affidavit the orders impugned do not reflect such a reason. Be that as it may, this Court is satisfied that there is no difference mentioned in the provision added to Section 57(A) vide notification dated 27th August 2015 and no distinction can be drawn between the teachers who are appointed without recommendation of the Bihar College Service Commission for the purpose of scrutinizing their cases or for the purpose of releasing the grant. Such an approach adopted by the State Government has resulted in unnecessary litigation before this Court. The action of the State is found to be wanting and in view of above, the impugned orders passed by the respondent dated 23.09.2018 as well as the orders passed subsequently dated 06.10.2022 by the Director are quashed and set aside with further direction to release the grant to the concerned University for further distribution of salary and other allowances to the petitioners. Those who have retired shall also be granted their due pensionary benefits in terms of the U.G.C. pay scales. The exercise shall be conducted positively within a period of one month from today.”

59. On close scrutiny of the fact, it is quite clear that



no person can be asked to perform duties without being paid their due salary and even no plausible reasons have been put forth for not taking appropriate action at the relevant time to remove these teachers, if they were not found to have been appointed in accordance with law and the State Government did not pass any order directing the University to take any steps for removing them. Instead, in an arbitrary and illegal manner, contrary to the principles of law, directions were issued to withhold the salary in respect of all these petitioners, which is definitely in defiance of the rights under Article 21 of the Constitution of India and, as such, the actions of respondents are highly deprecated and not acceptable in law in view of the dictum of Hon'ble Apex Court in the case of *Man Singh. v. The State of Uttar Pradesh & Ors* as reported in *(2022) SCC OnLine SC 726* wherein it is held that even if the appointment is found to be irregular, still the payment of salary is to be paid for the duties discharged.

60. It is admitted on facts that the statute which was amended subsequently in the year 2015 by carving out the exception to Section 57(A), by introducing Section 57(A)(6) of the Act, 1976 requiring the University to make scrutiny of the cases of the teachers of affiliated degree colleges, appointed



prior to 19.04.2007, which exercises having already been completed by adopting necessary procedures as directed under the amended provision, the recommendations so sent, having not been accepted drawing distinctions by the State authorities, resulting in unnecessary litigation, on the ground that the aid released was under the deficit grant and not under the grant against performance, which have already been found to be wholly misplaced and fit to be interfered with in similar terms, as has been adjudicated by a Co-ordinate Bench of this Court in the case of ***Balram Pandey (supra)***.

61. From the above, it is quite clear that the impugned order passed by the Respondents *vide* Memo No. 1726 dated 23.09.2018 as well as consequential orders dated 06.10.2022 passed by the Director, Education Department, Govt. of Bihar in the case of ***Balram Pandey (supra)*** have been quashed with a further direction to release grant to the concerned Universities for further distribution of salary and other benefits to the petitioner and with respect to those who have retired shall also be granted their dues pensionary benefits in terms of UGC pay-scale by conducting positive exercise within the time frame so allowed.

62. The relief sought by the petitioners of CWJCs No. 250 of 2019 (Balram Pandey) which was heard along with the writ petition being CWJC No. 808 of 2019 and was allowed



and since the reliefs sought by these petitioners also being similar to that of the petitioners of CWJCs No. 250 of 2019 and its analogous case being CWJC No. 808 of 2019, this Court has no hesitation to allow the present writ petitions in terms of the judgment rendered by the Co-ordinate Bench in the case of CWJCs No. 250 of 2019 and its analogous case, which has attained finality with the dismissal of LPA No. 683 of 2023 and LPA No. 690 of 2023 preferred against the order passed by the writ Court in CWJCs No. 250 of 2019 and its analogous and further SLP(C) No. 023633 of 2025 (State of Bihar v. Ghanshyam Jha & Ors) and SLP(C) No. 024179 of 2025 (State of Bihar v. Balram Pandey & Ors) preferred against the order of the Hon'ble Division Bench rendered in LPA No. 683 of 2023 and its analogous, which also having stood dismissed and as such, the State Government is directed to conduct similar exercise with respect to the petitioners of CWJC No. 3653 of 2019, CWJC No. 3825 of 2019, CWJC No.10787 of 2019, CWJC No. 10239 of 2019 and CWJC No.10722 of 2019 and to release fund for ensuring payment of salary as well as pensionary benefits in terms of UGC pay-Scale positively within a period of two months from today.

63. Accordingly, the writ petitions being **CWJC No.**



3653 of 2019, CWJC No. 3825 of 2019, CWJC No.10787 of 2019, CWJC No. 10239 of 2019 and CWJC No.10722 of 2019 stand allowed.

CONSTITUENT COLLEGES

64. Since, the batch of cases, which were heard together, have been classified in two groups, being Affiliated and Constituent colleges and the matters related to the “affiliated colleges” have already been adjudicated hereinabove, therefore, this Court is now taking up the matters relating to the teachers of constituent colleges, whose writ petitions being, CWJC No. 23716 of 2018, CWJC No. 11469 of 2019 and CWJC No.14595 of 2019 are being considered together for its adjudication in the following manner.

Writ petition being CWJC No. 23716 of 2018

65. This writ petition has been preferred for the following relief(s):-

(i) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government and Kameshwar Singh Darbhanga since that the University, Darbhanga (hereinafter referred to as "the University") to take steps towards making



payment of current salary alongwith arrears of salary in favour of the petitioner that has not been paid to him since October, 2017 without there being any just and valid reason in support thereof;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government as well as the University to make payment of penal interest over and above the amount found admissible to be paid in favour of the petitioner as arrears of salary that has not been paid in favour of the petitioner since October, 2017 in the most illegal and arbitrary manner;

(iii) Any other relief/reliefs that the petitioner/petitioners may be found to be entitled to in the facts and circumstances of the present case.

66. Further, through Interlocutory Application No. 01 of 2019 additional relief(s) were incorporated in the main relief which are also being incorporated in the main relief of the writ petition.

“(i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the letter dated 19/08/2019 issued by the Registrar of the



University, by which the Principal/Secretary of the College has been directed to not take any work from such teachers working at the College in relation to whom necessary grants are not made available by the State Government for making payment of salary to them;

(ii) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing of the letter dated 28/08/2019 issued by the Principal of the College, by which the petitioner has been discharged from duties of the College w.e.f. 27/08/2019 in furtherance of the directions contained under the letter dated 19/08/2019 issued by the Registrar of the University;

(iii) Any other relief/reliefs that the petitioner may be found to be entitled to.

Submissions of the petitioner

67. Learned Senior counsel for the petitioner submits that the petitioner, Gangadhar Thakur, was initially appointed as a Lecturer on 17/01/1982 in Sahitya at Akhil Bharatiya Sanskrit Hindi Vidyapeeth, Khamhar, Begusarai, which is a constituent unit of Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter, referred to as "the University"). It has next been submitted that the initial appointment of the petitioner was duly approved by the University vide letter dated



26/02/1982 (Annexure-1) for a period of six months, specifically from 17/01/1982 to 17/07/1982. This approval was subsequently extended *vide* letter dated 09/11/1982 (Annexure-2) for the period between 18/07/1982 to 31/12/1982. The College in question was officially taken over as a constituent unit of the University on the basis of an agreement executed on 06/04/1982. The core submission of the learned Senior counsel is that the services of the petitioner have been duly regularized and confirmed by the competent authority of the University. It is highlighted that the University *vide* Letter dated 04/05/1983 commenced payment of salary to the petitioner in the revised U.G.C. pay scale. The University then issued an Office Order dated 25/08/2010 (Annexure-8) based on the decision of the Syndicate in its meeting held on 05/12/2009, confirming the petitioner's service as Lecturer in Sahitya with effect from 01/04/1985. Furthermore, this confirmation date was corrected and amended *vide* Letter dated 20/12/2012 (Annexure-12), changing the effective date of confirmation to 17/01/1982 in place of 01/04/1985.

68. Learned Senior counsel further submits that the final and conclusive decision regarding the petitioner's service status was taken by the Syndicate of the University during its



meeting held on 03/04/2017. Pursuant to this binding decision, Office Order dated 21/04/2017 (Annexure-15) was issued, which specifically regularised and confirmed the services of the petitioner as a Lecturer in Sahitya with effect from his initial date of appointment, i.e., 17/01/1982. The petitioner also discharged duties as Principal In-charge *vide* notification dated 15/03/2000 (Annexure-6) and was later transferred *vide* office order dated 21/09/2002.

69. It has next been submitted that despite the services of the petitioner having been regularised and confirmed with effect from 17/01/1982, and the petitioner continuously discharging his duties, the payment of his salary has been illegally and arbitrarily stopped since October, 2017 without any communication or justification. The petitioner had submitted a detailed representation dated 11/06/2018 (Annexure-16) to the concerned authorities for the release of his salary. Learned Senior counsel contends that the State Government's rejection, if any, of the University's recommendation/proposal, specifically that contained in Memo No. 1726 dated 23.09.2018 issued by the Additional Secretary, Education Department, which rejected the confirmation of 67 teachers, cannot apply to the petitioner of this case. The petitioner's regularization and confirmation was



an antecedent and independent action of the University's Syndicate, effective from 17/01/1982, long before the State's rejection order, and is based on a separate line of Syndicate decisions. The action of the University in withholding the salary of a confirmed employee is utterly illegal, discriminatory, arbitrary, and in violation of the principles enshrined under Articles 14, 21, and 23 of the Constitution of India.

Submissions of the State

70. Learned Senior Counsel representing the State on being confronted with the fact and law, submits that similar issues have been adjudicated by the Co-ordinate Bench, where the proposal of the University for payment of salary to 43 teachers had been rejected by State Government *vide* letter no. 2157 dated 19.09.2019 and similarly situated persons like the present writ petitioner filed writ applications bearing CWJC No. 9974 of 2022 (Manidhar Mishra vs. The of Bihar & Ors.), CWJC No. 8364 of 2023 (Namo Nath Thakur vs. The State of Bihar & Ors.), CWJC No. 6854 of 2023 (Shiv Shankar Jha vs. The State of Bihar & Ors.) and CWJC 283 of 2023 (Badri Nath Jha vs. The State of Bihar & Ors) respectively and all the said writ applications were allowed *vide* order dated 25.02.2025.

71. The learned counsel for the State enlightens the



Court by submitting that the State of Bihar has preferred LPA No. 578 of 2025 (The State of Bihar vs. Manidhar Mishra & ors.), LPA No. 589 of 2025 (The State of Bihar vs. Namo Nath Thakur & ors.), LPA No. 581 of 2025 (The State of Bihar vs. Shiv Shankar Jha & ors.) and LPA No. 1112 of 2025 (The State of Bihar vs. Badri Nath Jha) which is pending and as such, the present writ application may be adjourned till the disposal of aforesaid LPA's.

Civil Writ Jurisdiction Case No. 11469 of 2019

72. This writ petition has been filed for the following relief(s):-

(i) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government and Kameshwar Singh Sanskrit University, Darbhanga (hereinafter referred to as "the University") to take steps towards making payment of current salary along with arrears of salary which has not been paid to the petitioner since October, 2017 without there being any just and valid reason in support thereof;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned authorities



under the Education Department of the State Government as well as University to make payment with penal interest over and above the amount of salary that the petitioner may be found to be entitled to and that had been denied to him in the most illegal and arbitrary manner;

(iii) Issuance of a declaration holding that the petitioner is entitled for payment of salary on month to month basis as per his entitlement in accordance with law while continuing in the capacity of Assistant Professor of Sahitya Department at Nandan Sanskrit Mahavidyalaya, Ishapur, Deep, Madhubani (hereinafter referred to as "the Mahavidyalaya")

(iv) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

73. Further, by way of filing Interlocutory Application No. 01 of 2025 additional relief(s) were incorporated in the main relief which are also being incorporated in the main relief of the writ petition:-

“i) For direction to the respondent authorities under the Kameshwar Singh Darbhanga University to take steps towards including the name of the petitioner in the



budget of the University for the year 2022-23, 2023-24 and 2024-25 for the purpose of making payment of salary in his favour.

(ii) For direction to the concerned respondent authorities to resume payment of arrears of current salary along with arrears of salary in favour of the petitioner that has been stopped since September 2021.

Submissions of the petitioner

74. Learned Senior counsel for the petitioner submits that on 29.01.1979, the Principal of Nandan Sanskrit Mahavidyalaya, Ishapur, Deep, Madhubani informed the petitioner that he had been selected for temporary appointment as Lecturer of Sahitya (Hindi) with effect from 01.02.1979 (Annexure 1 to the petition). The petitioner joined on 01.02.1979 and began discharging duties as Lecturer. In February 1980, the Mahavidyalaya issued an advertisement dated 09.02.1980 inviting applications for sanctioned posts of Lecturer in Sanskrit, Sahitya, Jyotish and Sahitya (Hindi), to which the petitioner applied. It is further submitted that by letter dated 02.10.1980 (Annexure 3), the Registrar of Kameshwar Singh Darbhanga Sanskrit University conveyed the Vice-Chancellor's provisional approval of the petitioner's temporary appointment (and others), with effect from 01.02.1979. A



follow-up letter dated 03.10.1980 (Annexure-4) issued from the Registrar addressed to the Director, Higher Education submitted before the State Government to ratify the appointment. Subsequently, *vide* letter dated 24.02.1982, the Government of Bihar issued a notification (Annexure-5) taking over 38 Sanskrit colleges (including the petitioner's college) as constituent units of the University w.e.f. 01.04.1980. Upon this takeover, the petitioner became a teacher in University service and continued to discharge his duties. During the 1980s and 1990s his salary was regularly paid (initially on an ad hoc basis).

75. It has next been submitted that till the year 2001, the petitioner was still serving as a Lecturer, and on 23.08.2001, the University Syndicate resolved to absorb him and one other staffer as permanent Lecturers of the Mahavidyalaya, with effect from 23.08.2001 (official minutes, Annexure-12). This decision was implemented by Office Order dated 16.06.2008 (Memo No.3624), which fixed the petitioner's pay at Lecturer scale (Rs.8,000-13,500) with effect from March 2008 and declared his service "absorbed" from 23.08.2001 (as per Syndicate resolution). Pursuant to this order, the petitioner was relieved on 20.06.2008 and joined his substantive post as Lecturer of Sahitya on 21.06.2008.



76. It is next submitted that notwithstanding the above, at one point the petitioner's pay was abruptly stopped. On 21.12.2010, the University issued an order withholding the salary of the petitioner and similarly situated teachers, a criminal case was reportedly lodged against the petitioner (details in Annexure-6). However, the University later rescinded this stoppage. On 15.10.2012, the University issued letter directing the petitioner to appear before the Selection Committee so constituted. On 16.12.2012, it passed an office order placing the order dated 21.12.2010 order in abeyance and directed that the petitioner's salary be resumed from December 2010 (date of stoppage) onwards. Thereafter the petitioner's pay was disbursed from December 2010 up to 2017.

77. It is further submitted that in early 2015, the State Education Department raised objections to these payments. A letter dated 11.02.2015 from the State (Annexure-9) questioned payment of salary to the petitioner and others, citing non-compliance of statutory procedure. In response, on 01.03.2015 the University asked the petitioner (and others) to explain their eligibility in light of the State's letter. The petitioner submitted a detailed representation on 01.10.2015, explaining his entitlement and citing similarly situated colleagues who had



been paid. Meanwhile, on 19.02.2016 the Governor's Secretariat (via Education Department) directed the Vice-Chancellor to file a para-wise reply to the State's appeal (under Section 9(4) of the BSU Act) against the resumed payments. Thus, the State had formally challenged payment of the petitioner's salary by appealing to the Chancellor.

78. Learned counsel further submits that around the same time, the petitioner's pay entitlement was confirmed by an independent verification. The Pay Verification Cell of the Education Department examined his service record and found him to be entitled to the Assistant Professor pay scale in State universities. This official endorsement (Annexure-12) established that the petitioner's pay had been fixed correctly and that he qualified as an Assistant Professor.

79. It is next submitted that despite the above, the petitioner's salary was again stopped. In September/October 2017, the University abruptly withheld payment of his monthly salary without any notice or explanation. All other similarly placed teachers continued to be paid. The petitioner's salary thus remained unpaid from October 2017 onwards. The petitioner and his Principal repeatedly requested payment. On 29.05.2018 the petitioner filed a representation to the Vice-Chancellor



seeking immediate release of his current salary and arrears. A copy of this representation is annexed to the petition as Annexure-13.

80. Learned counsel for the petitioner submits that the stoppage of his salary since October 2017 is without any valid reason or notice, and has caused him grave hardship. He notes that (a) the University had itself approved his continuous service (via) University letters of 1980, the takeover letter of 1982, the Syndicate resolution of 2001 and the 2008 absorption order, and the 2013 regularization order), and (b) the State's own Pay Verification Cell confirmed his entitlement to Assistant Professor pay. Yet the respondents arbitrarily refused to pay him from October 2017 onwards, allegedly violating Articles 14 and 21 of the Constitution and accordingly, prays for directing the respondents to pay his current salary and arrears (including penal interest).

81. It is further submitted that while the writ petition was pending, the petitioner filed Interlocutory Application No.1/2025 seeking to amend the prayer. He sought directions to include his name in the University's budget for 2022–23, 2023–24 and 2024–25 for payment of his salary, and for payment of salary arrears withheld since September 2021.



82. Lastly, it has been submitted on behalf of the petitioner that the petitioner has entitlement to the salary. He points out that the University itself approved and confirmed the petitioner's service (recently *vide* office order dated 07.03.2013 regularizing his service w.e.f. 23.08.2001). On this basis the petitioner came to hold a substantive post of Lecturer (later Assistant Professor) and was paid as such until 2017. Counsel argues that the stoppage of salary in 2017–2018 was fully unjustified and arbitrary, especially since no notice or grounds were communicated. The petitioner relied on the principle that once service is regularized, fundamental fairness and Articles 14 and 21 protect the continuance of salary. It is pleaded that the refusal to pay violates the petitioner's rights of equality and livelihood, and even Article 23 (prohibition of forced labour/bondage) is attracted since it compels him to live without basic sustenance. Counsel contends that no equally efficacious alternative remedy is available; the petitioner had approached the University and Education authorities without success, leaving the writ petition as his only recourse. In short, the petitioner submits that in all fairness he is entitled to receive the salary that was due to him, and that the respondents' action in withholding it, is arbitrary and illegal.



83. Learned Senior counsel representing the petitioners have submitted that the issues at hand in relation to the teachers of Constituent Colleges has already been adjudicated by the Co-ordinate Bench of this Court rendered in CWJC No. 283 of 2023 (Badri Nath Jha vs. The State of Bihar & Ors) which pertains to release of grant, which is said to have been denied by the State and pursuant to such denial the University is not in a position to pay the salary to the petitioner.

Civil Writ Jurisdiction Case No. 14595 of 2019

84. The present petition has been filed for the following reliefs:-

“(i) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Education Department of the State Government and Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred to as "the University") to take steps towards making payment of current salary in favour of the petitioner that has been withheld in the most illegal and arbitrary manner without assigning any reason in respect thereof along with arrears of salary which has not been paid to the



petitioner since October, 2017 without there being any just and valid reason in support thereof;

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned authorities under the Education Department of the State Government as well as the University to make payment with penal interest over and above the amount of salary that the petitioner may be found entitled to in lieu of the arrears of salary that has been not paid to him illegally for a period of almost over one year now;

(iii) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.

Submissions of the petitioner

85. Learned Senior counsel for the petitioner submits that the petitioner, Dwarika Nath Jha, was initially appointed on a temporary basis as a Lecturer in Sahitya at Kalyani Sanskrit Mahavidyalaya, Ishapur, Deep, Madhubani, which was an Affiliated College under the Kameshwar Singh Darbhanga Sanskrit University (hereinafter referred to as "the University"). This initial appointment was made pursuant to a Notice dated 01/01/1979 (Annexure-1), and the petitioner submitted his joining on 01/02/1979 (Annexure-2).

86. It is submitted that thereafter, the College published an advertisement in the Hindi Daily Aryawart on 09/02/1980



(Annexure-3), against which the petitioner duly applied and was selected by a Selection Committee duly constituted by the College. The University, recognizing this, accorded its approval to the petitioner's appointment as Lecturer in Sahitya with effect from his initial joining date, i.e., 01/02/1979, vide Letter dated 03/10/1980 (Annexure-4). The core submission of the learned Senior counsel is that the services of the petitioner stood duly taken over, absorbed, and subsequently confirmed by the competent authorities of the University. The College where the petitioner was working was taken over as a constituent unit of the University by the State Government with effect from 01/04/1980, which was communicated by the University vide Letter dated 24/02/1982 (Annexure-6). The State Government, vide Letter dated 28/03/1987 (Annexure-8), directed the University that persons working on adhoc basis were to be absorbed against sanctioned and vacant posts. The University's Syndicate, in its meeting held on 23/08/2001 vide (Annexure-12), resolved to absorb the petitioner's services against a sanctioned and vacant post of Lecturer in Sahitya at Dharm Samaj Sanskrit College, Muzaffarpur, with effect from 23/08/2001. This absorption was implemented vide Office Order dated 16/06/2008 (Annexure-13).



87. Learned Senior counsel further submits that the services were further regularized and confirmed on the basis of subsequent Syndicate decisions, thereby rendering his service status beyond challenge: The Syndicate, in its meeting held on 15/12/2012 (Annexure-18), approved the recommendation of the University Selection Committee for the selection/regularization of the petitioner. Consequently, the University issued Office Order dated 07/03/2013 (Annexure-19), regularizing and confirming the petitioner's services as Lecturer in Sahitya at Dharm Samaj Sanskrit College, Muzaffarpur, with effect from 23/08/2001. It is further submitted that the Education Department, Government of Bihar, vide Letter dated 03/05/2013 (Annexure-20), directed the University to take action for the confirmation/regularization of the services of teachers, who were not absorbed on Commission's recommendations, and the University's action in the petitioner's case is in consonance with this directive.

88. It is next submitted that despite the services of the petitioner having been legally absorbed, regularized, and confirmed, and the petitioner having continuously discharged his duty in the capacity of Assistant Professor (formerly known as Lecturer), the payment of his salary has been illegally and



arbitrarily stopped since October, 2017 without any communication or justification in this regard, subjecting the petitioner to extreme financial hardship and penury. Learned Senior counsel contends that the action of the University in withholding the salary of a duly confirmed employee is utterly illegal, discriminatory, arbitrary, and a blatant disregard and violation of Articles 14 and 21 of the Constitution of India.

Consolidated stand/submissions of the State in all the writ petitions related to constituent Colleges.

89. On the other hand, learned counsel for the State has submitted that the matter related to 43 teachers of constituent colleges who were appointed on temporary basis, their services in terms of the statute could not be regularized as all the three statutes for regularization of the teachers have been declared *ultra vires vide* judgment reported in **2001(2) PLJR 817 (Shiv Narain Yadav v. State of Bihar & Ors)** and proposal of the University for making payment of salary to 43 teachers has been rejected by the State Government *vide* letter no. 2157 dated 19.09.2019 and finally submits that persons like the present writ petitioner filed writ applications bearing CWJC No. 9974 of 2022 (Manidhar Mishra vs. The of Bihar & Ors.), CWJC No. 8364 of 2023 (Namo Nath Thakur vs. The State of Bihar &



Ors.), CWJC No. 6854 of 2023 (Shiv Shankar Jha vs. The State of Bihar & Ors.) and CWJC 283 of 2023 (Badri Nath Jha vs. The State of Bihar & Ors) respectively, all the said writ applications were allowed *vide* order dated 25.02.2025.

90. It has further been submitted that the State of Bihar has preferred LPA No. 578 of 2025 (The State of Bihar vs. Manidhar Mishra & ors.), LPA No. 589 of 2025 (The State of Bihar vs. Namo Nath Thakur & ors.), LPA No. 581 of 2025 (The State of Bihar vs. Shiv Shankar Jha & ors.) and LPA No. 1112 of 2025 (The State of Bihar vs. Badri Nath Jha) against the orders passed in the aforesaid writ petitions *vide* order dated 25.02.2025, which is under process and has sought adjournment till disposal of aforesaid LPA's.

**Consolidated stand/submissions of the University
in all the writ petitions.**

91. On the other hand, learned counsel representing University submits that the appointment of the petitioners was regularised by convening the meetings of the Selection Committee and further getting it approved by the Syndicate and as also by Selection Committee, which was further constituted by the University, which recommended their confirmation and the Syndicate approved it and the University subsequently



forwarded the proposal for salary of these petitioners to the State.

92. It is the case of the University that the payment of salary depends on the receipt of funds from the State and they undertake that once the requisite funds with necessary budgetary allocation from the State Government is received, then the same shall be released in their favour.

93. Grounds of rejection in respect of Constituent

Colleges

(i) Petitioners were appointed as temporary Lecturer in the respective subject without recommendation of the Bihar College Service Commission against the unsanctioned post.

(ii) Regularisation of service of the petitioners not done under the Statues of regularization/absorption for temporary teachers prior to judgment passed in Dr. Shiv Narain Yadav & others v. State of Bihar & ors and as per the judgment of Dr. Shiv Narain Yadav vs State of Bihar, the services of no temporary teacher including the petitioner can be regularised.

(iii) Order dated 01.02.2023 passed in CWJC No. 250 of 2019 (Balram Pandey vs. The State of Bihar) and CWJC No. 808 of 2019 (Ghanshyam Jha & ors vs. The State of Bihar & ors.) is not applicable in the present cases as the order passed



therein is related with regard to affiliated colleges.

(iv) Proposal of the University for payment of salary to 43 teachers has been rejected by State Government vide letter no. 2157 dated 19.09.2019.

Consideration

94. Having considered the submissions of the rival parties, this Court is of the view that the judgment of Hon'ble Division Bench rendered in the case of ***Braj Kishore Singh & Ors. Vs. State of Bihar & ors (1997)1 BLJR 625*** wherein it has been specifically stated that there is no requirement to take prior approval of the State Government, when the post is already sanctioned and the petitioner can be said to be duly appointed as the post was advertised and the petitioner was appointed after facing the interview only.

95. In the case of ***Braj Kishore Singh & Ors. Vs. State of Bihar & ors (1997)1 BLJR 625***, it has been held as follows:-

“30. In view of my interpretation of Section 35 of the Act and conclusion that the staffing pattern has already been laid down which amounts to creation of posts, the abovesaid decisions cannot be said to be correct in law. The Supreme Court rejected the S.L.Ps. summarily and those orders cannot be understood as upholding the



judgments/orders on merit. If the appointments are made against posts as per the staffing pattern, i.e. within the sanctioned strength, they cannot said to be violative of Section 35 of the Act and illegal on the ground that the posts have not been sanctioned by the State Government provided, for course, the candidates possess the eligibility and suitability and the selection/appointment process was in conformity with Articles 14 and 16 of the Constitution.

31. Learned Single Judge was referred to Section 10(6) of the Universities Act. That section empowers the vice-Chancellor to make appointment of ministerial staff and other servants of the University. Learned Judge was held that after the College became constituent in 1979, the impugned appointment could not have been made by the College authorities. However, as stated above, while narrating the foundational facts, the University had already approved those appointments on 2nd March, 1981 and forwarded the same to the Department for approval of the State Government.

32. In the above premises, the judgment of the Learned Single Judge rejecting the claim of the appellants on the ground that they were appointed without



prior approval of the Act cannot be sustained. In the ordinary course, in view of my conclusion that it is open to the State Government to consider the validity of appointments already made for the purpose of granting or refusing past facto approval, I would have considered asking the State Government to look into the claim of the appellants afresh. However, having regard to the fact that the appellants have continued in service for more than 17 years, I do not think it would be appropriate exercise of discretion to reopen the matter after such a long lapse of time. In Direct Recruit Class-11 Engineering Officers, Association v. The State of Maharashtra a Constitution Bench of the Apex Court held that where initial appointment is not made according to the rules but the appointee continues in service uninterruptedly for long period till regularisation of his service, the entire period as the period spent in service for the purpose of consequential benefits will be counted. The appellants are accordingly entitled to have their services regularised against the posts within the staffing pattern as applicable to the college.

33. In the result, this appeal is allowed. The judgment of the Learned Single Judge under appeal is set aside. The impugned



order of the State Government dated June 8, 1983, Annexure-7 to the writ petition, is also set aside. The writ petition stands allowed accordingly. In the circumstances of the case there will be no order as to costs”

96. In view of the judgment rendered in ***Braj Kishore Singh (supra)*** post facto approval of the State Government is not required and accordingly, the Co-ordinate Bench of this Court in the case of ***CWJC No. 9974 of 2022 (Manidhar Mishra vs. The of Bihar & Ors.)***, ***CWJC No. 8364 of 2023 (Namo Nath Thakur vs. The State of Bihar & Ors.)***, ***CWJC No. 6854 of 2023 (Shiv Shankar Jha vs. The State of Bihar & Ors.)*** and ***CWJC 283 of 2023 (Badri Nath Jha vs. The State of Bihar & Ors)*** quashed the impugned orders by directing the authorities to ensure the payment of pension on monthly basis and also pay the arrears of pension within a period of two months from the date of production/receipt of a copy of this order. The reason employed by the respondents to reject the claims as indicated aforesaid, became meaningless as the issues have been put at rest in the aforementioned cases.

97. Since the orders passed by the Co-ordinate Bench in the aforesaid case have not been tinkered by the Higher Court and the same stands as it is, therefore, this Court has no



occasion to take a divergent view but to go with the views taken by the Co-ordinate Bench in the aforesaid cases, where the issues being similar in nature and the Co-ordinate Bench having relied upon the judgment passed by the Hon’ble Division Bench in the case of *Braj Kishore Singh (supra)*, have quashed the impugned rejection orders and accordingly, this Court also directs the authorities to extend similar reliefs to the petitioners of these cases being *CWJC No. 23716 of 2018, CWJC No. 11469 of 2019 and CWJC No.14595 of 2019* by paying their monthly pension and as also the arrears of pension in similar terms as that of the petitioners of CWJC No. 9974 of 2022 (Manidhar Mishra vs. The of Bihar & Ors.), CWJC No. 8364 of 2023 (Namo Nath Thakur vs. The State of Bihar & Ors.), CWJC No. 6854 of 2023 (Shiv Shankar Jha vs. The State of Bihar & Ors.) and CWJC 283 of 2023 (Badri Nath Jha vs. The State of Bihar & Ors) respectively, within a period of two months from the date of production/receipt of a copy of this order.

98. Accordingly, all the writ petitions stand allowed.

99. There shall be no order as to costs.

(Ajit Kumar, J)

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AFR/NAFR	AFR
CAV DATE	24.11.2025



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