

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14029 of 2021

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1. Neelam Srivastava W/o Ajay Kumar Srivastav, Resident of - Ramkrishna Nagar, Mahpur, in front of Gayatri Shakati Peeth, P.S. - Sarai, OP, Siwan.
 2. Nira Kumari, W/o Shri Sunil Kumar Srivastava, Shastri Nagar, Near Hanuman Mandir, Ward No. 13, Siwan, P.S.- Siwan Town, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department.
2. Jai Prakash University, Chapra, through its Registrar.
3. The Vice Chancellor, Jai Prakash University, Chapra.
4. The Registrar, Jai Prakash University, Chapra.
5. The Principal, V.B.M. College, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Hitesh Suman, Advocate Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Prabhakar Jha, (GP 27)
For the Respondent/s	:	Mr. Rana Vikram Singh, Advocate Mrs. Rasika, Advocate
For the University	:	Mr. Manoj Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 27-03-2025 Heard Mr. Hitesh Suman, along with Mr. Sanjay Kumar, learned counsels appearing on behalf of the petitioners; Mr. Prabhakar Jha, learned (GP 27), for the State; Mr. Rana Vikram Singh along with Mrs. Rasika, learned counsels appearing on behalf of the respondent/s and Mr. Manoj Kumar Singh, learned counsel appearing on behalf of the Jai Prakash University.

2. The petitioners in paragraph no. 1 of the present writ petition have sought inter alia the following relief(s), which is reproduced hereinafter:-



“1.) That this application is for issuance of appropriate Writ/writs, direction/directions to the respondents authorities to provide the status of "Teacher" to the petitioners, in view of order dated 27.2.2017 passed by the Hon'ble Supreme Court of India in Civil Appeal No(s) 6178-6181 of 2015, Durga Prasad Singh and others vs The State of Bihar and others and in terms of Definitions section 2 (V) of The Bihar State University Act, 1976 as the petitioners were holding the post of Demonstrator and status of teacher on 05 October 1991 i.e. on the date of enforcement of Bihar State University (Amendment and Validation) Act, 2012.”

3. Learned counsel appearing on behalf of the petitioners submitted that the claim of the petitioners is that they should be given status of ‘teacher’ in view of the order dated 27.02.2017 passed by the Hon’ble Supreme Court in Civil Appeal No(s).6178-6181 of 2015 (**Durga Prasad Singh and Ors. Vs. the State of Bihar and Ors.**) and in terms of section 2 (v) of the Bihar State University Act, 1976 (hereinafter referred to as the ‘Act, 1976’), in view of the fact that the petitioners were holding the post of Demonstrator and status of ‘teacher’ on 05 October 1991 i.e. the date of enforcement Bihar State University (Amendment and Validation) Act, 2012 (hereinafter referred to as the ‘Act, 2012’) and by the Act, 2012 amendment in Section 2 of the Bihar Act-23, 1976 – clause (v) of section – 2 has been substituted by the following:

"(v) "Teacher" means person holding the post of only University Professor/Professor, Reader, and Lecturer and such sanctioned posts in the teacher's grade on the basis of regulations issued by the U.G.C. from time to time;

Provided, that notwithstanding the said substitution in Section-2(v), the action taken in respect of working



Demonstrators appointed before 18-09-1975 on the post sanctioned before 01-01-1973 with the concurrence of Bihar Public Service Commission or Bihar State University Service Commission shall not be affected by this substitution.”

and

“3. Overriding effect of the Act - Notwithstanding anything contained contrary in this Act or any other Act, Ordinances, Rules or decision or judgment or decree of any court the provisions of this Act shall have overriding effect.”

The petitioners have been granted benefit in view of the provision contained in section (2) of the Act 2012.

4. Learned counsel appearing on behalf of the petitioners submitted that the petitioners are entitled for status of ‘teacher’ in view of the judgment dated 27.02.2017 passed by the Hon’ble Apex Court in **Durga Prasad Singh (Supra)**. Learned counsel further submitted that the petitioners are entitled for status from the effective date i.e. 01.03.1981 in respect of the petitioner no.1 and 01.10.1985 in respect of the petitioner no.2 in terms of judgment of the Apex court in **Durga Prasad Singh (Supra)** and the notification issued by the University contained in Memo no.5512 dated 16.03.2007. Learned counsel has further submitted that the Act, 1976, before the amendment included demonstrators as teachers, as per the provision of section 2 (v), the amendment act has saved the status, rank, in light of the judgment passed by the Apex Court in **Durga Prasad Singh (Supra)**.



5. Per contra, learned counsel appearing on behalf of the State submitted that in view of the law laid down by the Apex Court in case of **Durga Prasad Singh (*Supra*)** and in terms of definition under section 2 (v) of the Act, 1976, the petitioners were holding the post of demonstrators and status of 'teacher' till the date of enforcement of the Act, 1976 by amendment and by the Act 2012 i.e. till 5 October, 1991. The Apex Court has clarified that their designation will remain as demonstrators, as per the Government Resolution no.608 dated 10.04.2012, since the amending Act 2012 has been made effective from the date of issuance of University Grants Commission (UGC) regulation 1991 i.e. w.e.f. 05 October, 1991. The present status, rank and pay of the petitioners have been taken into consideration. The petitioners will continue to hold the post of demonstrators till date and it will not be withdrawn. Learned counsel submitted that in this regard specific statement has been made in para-12 of the counter affidavit filed on behalf of the State. In view of the clarification made by the Apex Court, the petitioners are not entitled to get benefit as 'teacher' being demonstrators and as such, the petitioners were re-designated by Memo no.5512 dated 16.03.2007 (Annexure-2 to the writ petition).



6. Having heard the rival submissions made on behalf of the parties, as well as, the clarification made by the Apex Court in the case of **Durga Prasad Singh (*Supra*)**, I find that the petitioners, who are aggrieved that they were teachers on the effective date and their status is required to be retained, as they were holding till the date 05.12.1992. In this regard the petitioners may file their respective representation before the Registrar of the University for determining and maintaining their said status.

7. The Registrar of the University is directed to consider the claim of the petitioners, in accordance with law laid down by the Apex court in case of **Durga Prasad Singh (*Supra*)** and see that the petitioners are not discriminated in any manner, with any other similarly situated person/persons.

8. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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