

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10231 of 2020

Vinay Kumar, Assistant Professor Cum Junior Scientist (Soil Science and Agrivultural Chemistry) in the Post-Graduate Department of Bihar Agricultural University (BAU), Sabour, Bhagalpur at Present Posted at Jute Research Institute, Katiahr, and about 43 Years (Male), Son of Bhup Narayan Mahto, Resident of Type 4,Block B, Quarter No. 24, Bihar Agrivultural Collge Residential Canpus Sabour, District-Bhagalpur, Pin-813210.

... .. Petitioner/s

Versus

1. The Bihar Agriculture University (BAU), Sabour through its Registrar Having Office at Sabour, Bhagalpur, Bihar-813210.
2. The Hon'ble Vice Chancellor of Bihar Agricultural University (BAU), Sabour.
3. The Director, Administration, Bihar Agricultural University (BAU), Sabour, Bhagalpur.
4. The Director, Extension Education Cum Chairman allotment Committee, Bihar Agricultural University (BAU), Sabour, Bhagalpur.
5. The Dean (Agriculture), Bihar Agricultural University (BAU), Sabour, Bhagalpur.
6. The Executive Engineer (Allotment), Bihar Agricultural University (BAU), Sabour, Bhagalpur.
7. The Associate Director Research Station (JRS), Katihar, BIhar, a Unit Under Bihar Agricultural University (BAU), Sabour, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anand Kumar Ojha, Sr. Adv.
For the Respondent/s : Mr. Sanjeev Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 24-06-2025

Heard Mr. Anand Kumar Ojha, learned Senior Counsel
appearing on behalf of the petitioner and Mr. Sanjeev Kumar,



learned counsel for the respondents.

2. Learned counsel appearing on behalf of the petitioner at the outset seeks to delete sub-paragraph Nos. VI & VII of para-1 of the main writ petition in course of the day for the present writ petition.

3. The petitioner in paragraph No. 1 of the present writ petition has sought *inter alia* following relief(s), which is reproduced hereinafter:

- i. “ Issuance of writ in the nature of certiorari for quashing the office order No. 282 dated 22.06.2020 including the decision of the House Allotment Committee dated 04.06.2020 to the extent of cancellation of the residential accommodation of the quarter bearing Type-IV, Quarter No. 24 allotted to the petitioner as back as on 24.05.2016 by the house allotment committee proceeding dated 14.05.2016 on the ground that the same is in breach of Rule 6.8 read with 7.0 of the House Allotment Rules, 2017 and the latent impact of this decision is changing the service condition of employee justifying "transfer" to non teaching assignment against law and fundamental rights under Article 14, 16 and 21 of the Constitution of India.
- ii. Issuance of declaration that without any objection against the allotted house and continuance of the petitioner and his family in all these years, the allotment cannot be declared unauthorized as to cause cancellation and imposition of penal rent apart from the fact known to the University that neither any HRA was claimed nor any request for or allotment of any quarter took place with a result that the 2016 allotted quarter remained with the petitioner against which regular rent was paid and no objection was ever raised.
- iii. Issuance of declaration that University has not right to impose penal rent as after long lapse it had declared the occupation of the house as unauthorized without any objection throughout the period it had suddenly treated to the unauthorized occupation of the petitioner and his family.
- iv. Issuance of declaration that regularly allotted house not subjected to any cancellation for two years at least require a show cause notice before cancelling the 2016 allotment of the house used for the family of a teacher in all these years and during the present Covid pandemic.
- v. Issuance of declaration that the University regularly accepted the regular rent deposited by the petitioner without any whisper ever on the continuance in the duly allotted house hence as barred under law of estoppel, the University is not allowed to approbate and reprobate killing the rights of employee.
- vi. Issuance of further declaration that the issue needs



adjudication as such deputation/posting outside teaching assignments destroys/mars the promotion under Career Advancement Scheme which is based on appraisal of teaching and research work without any Clause for any appraisal of non teaching assignments.

vii. *Issuance of further declaration that the issue needs adjudication also because the teachers retained in the faculty of PG department for teaching work would enjoy a march over those posted non teaching assignments and such teachers like petitioner would scanned discriminated and deprived of promotion which amounts to violation of fundamental rights under Article 16(1).*

viii. *Issuance of writ in the nature of certiorari for quashing the Letter No. 485 dated 28.07.2020 (wrongly mentioned as 03.07.2020) by which the representation dated 26.06.2020 based on the plea of Section 15(1) of the Act and Clause 2.6(1)(a) of the Statute and the Housing Rules was summarily rejected.*

ix. *Issuance of writ in the nature of certiorari for quashing the Letter No. 408 dated 25.08.2020 by which declaring the punishment of penal rent the authorities are seeking reply on the mode of recovery even though the decision on declaring the occupation as unauthorized was already taken on 14.06.2020 itself by the Housing Committed in which the both the DA and the Dean were members hence the letter dated 25.08.2020 like the letter dated 28.07.2020 of the DA was an eye wash as it was only post decisional after the cancellation of allotment already made on 14.06.2020 hence the status was already declared by multi member Committee.*

x. *Issuance of declaration that the decision of Housing Committee dated 04.06.2020 is bad as it violates the statutory rights and service rights of the teachers and without any show cause notices the Committee having Dean and DA as its member decided to cancel the allotment which is actually altering the status of the Teacher.*

xi. *Issuance of writ in the nature of certiorari for quashing the Letter No. 214 dated 15.06.2020 by which the status of all the teachers posted on deputation at non equivalent posts in the UG Department had been changed overnight to kill all the agitation of deputation allowance to such teachers posted for 4/5 years and matter being pending before the Hon'ble Chancellor.*

xii. *Issuance of writ in the nature of certiorari for quashing the Letter No. 40 dated 03.09.2020 based on Letter of the DA bearing Letter No. 636 dated 01.09.2020, (never supplied to the petitioner and not explained in the impugned order dated 03.09.2020 also) by which the recovery from salary was made and direction to vacate the quarter was issued.*

xiv. *Issuance of declaration that the substantive dispute by teachers of the post graduate department being pending and a grievance by teachers being deputed as different places within BAU but without any deputation allowance being under the consideration of the Hon'ble Chancellor; it is unfair by the University to give effect to its own notion and right to transfer such teachers even in the non teaching assignment.*

xv. *Issuance of declaration the teachers deputed for non equivalent works affects the academics and career of teachers being in violation of the basic service condition under the statues and an order of absorption is equally bad when the post is non equivalent and the matter is under the consideration of the Hon'ble chancellor and also declare that the decision under Letter No. 117 dated*



08.09.2020 as a follow up step to absorb the petitioner against the post of Assistant Professor at Katihar is just another illegality but albeit in the form of exposure of earlier deputation against non teaching assignment.

xvi. Issuance of direction to the authorities that there should be no recovery from the salary and no coercive steps like forcible vacation of the Quarter occupied by the family of the petitioner having female member and kids should be carried out till the matter is finally decided by this Hon'ble Court and the Hon'ble Chancellor."

4. At the outset, learned counsel informs that the petitioner has filed his representation dated 01.08.2020 under Section 36(1) of the Bihar Agriculture University Act, 2010, before the Chancellor and as per the instructions of the petitioner, the petitioner does not want to proceed with the said representation, which is still pending till date. In that view, he seeks to delete para Nos. 14 & 15 of the writ petition in course of the day.

5. Permission accorded.

6. Learned counsel appearing on behalf of the petitioner submitted that vide letter no. 408, dated 25.08.2020, the petitioner was imposed penalty a sum of Rs. 7,47,157/- as a consequence of non-vacation of the residential quarter for the period 24.12.2018 to 24.08.2020. The main contention of the petitioner is that no show-cause notice was issued before taking penal action against him and, as such, the very notice dated 25.08.2020 is liable to be set-aside and quashed.

7. Learned counsel in support of his argument has



submitted that the petitioner was appointed on 26.05.2015 and joined on 30.05.2015 with a condition to abide by the terms and conditions of the appointment. Learned counsel further submitted that the petitioner was residing in the quarter no. 24, “Type -IV”, and no objection was ever raised after the said quarter was allotted to him in the year 2016. Thereafter, the petitioner was transferred by the Director of Administration *vide* order no. 199, dated 20.09.2018 to JRS, Katihar and accordingly, the petitioner was relieved to join JRS, Katihar on 24.09.2018. The period involved in the alleged unauthorized possession of the quarter is from 24.12.2018 to 28.04.2020. Learned counsel further submitted that the petitioner was finally retained at the place of transfer i.e., JRS, Katihar and was posted as Assistant Professor-cum-Junior Scientist, Department of Soil Science, JRS, Katihar, *vide* letter no. 117, dated 08.09.2020. It is the case of the petitioner that so far as the period between 24.12.2018 till 2019 is concerned, pandemic broke out in November 2019 and the authority themselves allowed the petitioner to remain in the quarter and never objected to it. They also accepted the normal rent fixed for the said quarter.

8. So far as the pandemic period is concerned, the entire globe was facing pandemic including India before its final



normalcy in the year 2021. During this period, several SOPs were issued, and in view of the containment zones and restricted movement, the petitioner, who was living with his family, was constrained from vacating the quarter.

9. Learned Counsel further submitted that the order involving the penal action taken against the petitioner is without authority of law. It is well settled that, before taking any penal action, including imposition of penalty, at least an opportunity of hearing was required to be given to the petitioner before passing the order. Aggrieved by the said order, petitioner represented before the Chancellor during the COVID period, and also before the Grievance Redressal Committee. Learned Counsel submitted that since the petitioner has instructed him not to press the representation filed before the Hon'ble Chancellor, he proceeded to submit the matter before the Grievance Redressal Committee. Considering the fact that no opportunity was given to the petitioner, despite the fact that as per the terms and conditions laid down in letter no. 236, dated 24.05.2016, he was required to abide by the terms and conditions of the House Allotment Rule, 2017, the letter including the allotment of the quarter was made to the petitioner. Learned Counsel further informed that the said letter



of allotment has been brought on record by way of Annexure-R3/E on behalf of respondent no. 03.

10. On these grounds, learned counsel submitted that the action taken against the petitioner insofar as penalizing him by imposing penal rent for the period from 24.12.2018 to 24.08.2020 is not in accordance with law and is therefore required to be interfered with by this Court.

11. *Per contra*, Mr. Sanjeev Kumar, learned Counsel appearing on behalf of the university, submitted that the service condition of the petitioner is governed as per the terms and conditions of Bihar Agriculture University Act, 2010 and the petitioner was required to abide by the terms and conditions contained in allotment letter no. 236, dated 24.05.2016, which the respondents have brought on record by way of Annexure-R3/E. In this regard, a specific statement has been made in paragraph no. 09 that the petitioner was allotted residential accommodation on the recommendation of the House Allotment Committee, while he was posted under the PG Department of the University Headquarters *vide* letter no. 236, dated 24.05.2016. The allottee can only be permitted to retain the quarter as per clause 7 of the House Allotment Rule, 2017 for a period of not more than 03 months from the date of relieving.



The petitioner had admitted that he was relieved on 09.10.2018, and after three months from the date of relieving, the petitioner, in terms of the allotment letter and clause 7 of the House Allotment Rules, became liable for penal rent. Penal rent has been fixed and the petitioner is bound to make payment. The total amount has been calculated to Rs. 7,47,157/-, and now the petitioner cannot take the plea of violation of Principle of Natural Justice.

12. Learned counsel further submitted that, against letter no. 408 dated 25.08.2020, the petitioner had approached the Grievance Redressal Committee of the University where the Grievance Redressal Committee considering the provision contained in clause 7 of the Rules, as well as, the terms and conditions of the allotment letter, declined to pass any order contrary to the rules. The penal rent was fixed and the same was communicated to the petitioner vide letter dated 25.08.2020.

13. Learned counsel further submitted that the petitioner's case was reviewed on 07.07.2020 and it was found that the transfer of the petitioner was proper and just. Further, the committee recommended deduction of the penal rent for the quarter occupied by the petitioner for the period exceeding the



permissible limit. The petitioner has not challenged the order passed by the Grievance Redressal Committee, dated 07.07.2020. Learned Counsel further submitted that in paragraph no. 16, the respondents have specifically stated that similar penal action has also been imposed earlier in cases of other employees and even in case of deputation.

14. Heard the parties.

15. Having considered the rival submissions made on behalf of the parties, the moot question which arises for consideration is, as to whether, any penal action can be taken without giving proper opportunity. It is admitted that the petitioner was allotted the quarter on the recommendation of the House Allotment Committee, *vide* letter no. 236, dated 24.05.2016. The petitioner finally occupied the quarter in the year 2016, and thereafter, he was transferred to JRS, Katihar *vide* memo no. 604, dated 24.09.2018. The transfer order dated 20.09.2018 stipulates that the petitioner was to abide by the terms and conditions of the House Allotment Committee, as per the office order dated 24.05.2016, which mandates that the petitioner, like the other 19 persons who were allotted the respective quarters, was required to comply with the terms and conditions of the House Allotment Rules. It is the case of the



petitioner that despite of the transfer/deputation, no penal action was taken, nor he was asked anytime to vacate the quarter, rather, the petitioner, without any default, continued to make payment of the prescribed rent without fail. The JRS, Katihar falls within the jurisdiction of Bihar Agriculture University, and as such, the petitioner was aware of the fact that he had occupied quarter no. 24, where his family resides and no other house was ever applied for or allotted and he has also stated the same in paragraph no. 25 of IA No. 01 of 2021.

16. The entire globe faced the pandemic 2019, and so far as the period before the outbreak of the pandemic in November 2019 is concerned, this court finds that from the date of transfer of the petitioner vide notification no. 992, dated 20.09.2018 till November, 2019, the petitioner had made specific statement that the university charged a normal rent and they had not issued any show-cause to the petitioner, nor intimated the petitioner to vacate the quarter. Moreover, the petitioner was not allotted any quarter at the place of transfer i.e., JRS,Katihar and all of a sudden, it appears that Dean proceeded to take action against the petitioner and penalized him by imposing penal rent to be paid by him within the specified period *vide*, letter no. 408, dated 25.08.2020



(Annexure-7). The conduct of the Dean shows that he did not take into account the fact that the authorities of the University were themselves responsible for allowing the petitioner to continue to remain in the flat. They have admitted that the petitioner was not allotted any quarter at the place of transfer at JRS, Katihar which is a unit of the University. This Court finds that the Grievance Redressal Committee of the University, apart from considering other issues and grievances raised by the petitioner, has not at all considered the aspect relating to the imposition of penal interest against the petitioner. No show-cause notice was issued to the petitioner before charging penal interest, as well as, no reason has been assigned as to why, the petitioner was allowed to continue till the period of pandemic broke. So far as period between November, 2019 till 24.08.2020 is concerned, in view of the pandemic and several SOPs issued by the central government and state government as well as the University, no penal interest can be charged for the said period. The order passed by the Grievance Redressal Committee dated 07.07.2020 contained in Annexure-R3 J to the counter affidavit as well as, order dated 25.08.2020 passed by the Dean (Agriculture) are set-aside and quashed. In view of the fact that this Court has already quashed the orders dated 07.07.2020 and



25.08.2020, any consequential letter/order thereto are also set-aside and quashed. The matter is remitted to the Grievance Redressal Committee to consider the case of the petitioner and pass a reasoned order in accordance with the law. It is expected that expeditious action will be taken by the Grievance Redressal Committee and shall consider the grievance of the petitioner within four weeks from communication of this order.

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

18. Interlocutory application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Sudhanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2025
Transmission Date	NA

