

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18827 of 2018

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1. Dhanesh Singh and Ors son of Late Mathura Prasad, resident of Village-Akhtiyarpur, P.S. Nagarnausa, District Nalanda.
 2. Gauri Shankar Singh, son of Guru Charan Prasad, resident of Village-Shahjahanpur, P.S. Shahjahanpur, District Patna.
 3. Vijay Narayan Rai son of Late Ganga Rai, resident of Village- Kalma Siko, Kila Road, Nepali Kothi, P.S. Chowk Thana, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Govt. of Bihar, Patna.
4. The Vice- Chancellor, Magadh University, Bodh Gaya.
5. The Registrar, Magadh University, Bodh Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Binodand Mishra, Advocate Mr. Arvind Kumar, Advocate
For the State	:	Mr. Subash Chandra Mishra -SC-16

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 31-03-2026 In the instant petition, petitioners have prayed for the following relief(s):-

“(i) For issuance of appropriate declaration holding that service of petitioners have been legally and validly absorbed in the University service vide notification dtd. 02.01.2006 in terms with the provisions of Sec. 4(i) (14) of the Bihar State Universities Act and also for declaration that the petitioners are entitled to all the consequential benefits of absorption such as pay, increments, salary, seniority and promotion in accordance with law.

(ii) For issuance of a writ in



the nature of writ of mandamus commanding the respondents to treat the petitioners as validly absorbed and grant him all the consequential benefits of absorption.

(iii) For issuance of an order/direction including the writ in the nature of writ of mandamus commanding the respondents to make payment of unpaid arrears of salary to the petitioner from November 2006 till date and grant him interest on unpaid arrears of salary at the rate of 12% from the date it became due till the date payment is made.

(iv) For issuance of any other writ/writs to which the petitioners are found entitled to in the facts and circumstances of this case.”

2. By referring to Annexure-2 as contained in Letter No. 25/C dated 12.02.1990 issued by the Department of Human Resource Development, Bihar Govt., learned Senior Counsel submits that the name of these petitioners finds place in the list of 4th Phase absorption, which is appended with the said letter, and the same has been approved by the Co-ordinate Bench in the case of ***Akhilanand Singh & Ors. vs. State of Bihar & Ors.*** (CWJC No. 17670 of 2017) reported in ***2018 (3) PLJR 1029***, wherein the Co-ordinate Bench has made a categorical direction that in the matter where the name of individual teaching and non-teaching employees finds place in the provisional list of the absorption contained in Letter Nos. 181C, 38C, 36C and as also



with respect to the non-teaching employees in letter No. 25C are concerned, the University was required to recognize their cases as eligible for absorption in view of judgment in Mahasangh's case and the University was also required to issue appropriate notification in the light of Letter No. 181C, 38C, 36C and 25C and accordingly, the Court has not approved the action of the University, in reviewing the notification of absorption taken by the University, which is supported by the report of Justice Agarwal Commission, judgment in Mahasangh's Case and Letter Nos. 181C, 38C, 36C and 25C.

3. On this strength, Senior Counsel next submits that on detailed consideration and deliberations having been made by the Co-ordinate Bench, the authorities of the Universities were directed to take a decision with regard to individual cases in the light of deliberations made in the aforesaid case, within the time-line framed in the said case, the individual is found covered by the aforesaid discussion, necessary decisions and notification were required to be issued by the University within the time frame so indicated and the relevant portion of the order as contained in Paras 30, 34 & 39, which has re-produced as under:-

*“30. It is also admitted on behalf
of the State that the sanction post if falls*



vacant on account of death, retirement or transfer subsequent to the cut-off date may be available for consideration of case of those incumbents who were appointed on the date of conversion and were eligible on the date of appointment for their consideration against the post which fall vacant on account of death, retirement or transfer.

34. In matters where the name of individual teaching and non-teaching employee figures in the provisional list of absorption contained in in letter No. 181C, 38C and 36C and so far as the non-teaching employees 25C are concerned, the University was required to recognize their cases as eligible for absorption in view of the judgment in Mahasangh's case and the University was required to issue appropriate notification in the light of the letter No. 181C, 38C, 36C and 25C and as such the Court does not approve the action of the University in notification of absorption taken by the University if supported by the report of Justice in reviewing the Commission, Judgment in Mahasangh's case, letter No. 181(C), 38(C), 36(C) and 25.

39. In view of the above, the University is directed to take decision with regard to the individual cases in the light of the discussions above within a time frame of four months and in case the individual is found covered by the aforesaid discussion, necessary decision and notification may be issued by the University within the time frame indicated above."

4. Senior counsel next submits that the University officials are required to adjudicate the claim of these petitioners, who are non-teaching employees and are guided by the list



appended with Letter No. 25/C dated 12.02.1990, which till date have been considered by the University, as per the parameter fixed in the case of Mahasangh's case, and the said judgment was tested before Hon'ble Division Bench as also before Hon'ble Supreme Court and the same has attained finality at the level of Hon'ble Apex Court.

5. In view of the stand so taken by the learned Senior Counsel, this Court finds appropriate to direct the Registrar, Magadh University to adjudicate the claim of these petitioners within a period of two months from the date of representation, which shall be made by these petitioners or legal heirs within a period of four weeks from today and necessary orders so passed shall be communicated and if the claim of these petitioners are found justified, then benefits shall also be extended in their favour, within the same time.

6. With the above observations, the instant writ petition stands disposed of.

7. Interlocutory Application(s), if any, stands disposed of in above terms.

(Ajit Kumar, J)

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