

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16483 of 2025**

Dr. Ravindra Kumar Sohane Son of Late Sriram Sohane, residnet of B2-3,  
Bhitti Colony, BAU Campus, P.O. - Sabour, P.S. - Bhitti, District- Bhagalpur,  
Pin Code- 813210.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Agriculture Department, Bihar, Patna.
2. Bihar Agricultural University, Sabour, Bhagalpur through its Registrar.
3. Vice Chancellor, Bihar Agricultural University, Sabour, Bhagalpur.
4. Director, Administration, Bihar Agricultural University, Sabour, Bhagalpur.
5. Registrar, Bihar Agricultural University, Sabour, Bhagalpur.
6. Dr. Sushil Kumar Pathak University Professor-cum-Chief Scientist (Agronomy), Bihar Agricultural University, Sabour, Bhagalpur.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Abhinav Shrivastava, Sr. Adv.  
Mr. Raushan, Adv.  
Ms. Shreyashi Raj, Adv.  
Mr.ChinmayHarsh Karn, Adv.

For the State : Mr. Additional Advocate General (5)  
Mr. Vishwambhar Prasad, AC to AAG-5

For Respondent Nos. 2 to 5: Dr. K.N.Singh, Sr. Adv.  
Mr.Shailendra Kumar, Adv.  
Mr.Sriram Krishna, Adv.  
Mr. Amarjeet, Adv.  
Mr. Shivaditya Dhari Sinha, Adv.

For Respondent No.6 Mr. Nirmal Kumar Sinha, Adv.

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA**  
**CAV JUDGMENT**

**Date : 01-07-2026**

Heard the parties.

2. The petitioner in the present writ application has  
prayed for the grant of following reliefs:

*“(i) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing that part of the office order dated*



*19/09/2025 bearing memo no. 753 issued under the signature of Deputy Director, Administration, Bihar Agricultural University, Sabour, Bhagalpur (hereinafter referred to as "the University"), by which in the purported compliance of the decision taken by the Board of Management of the University during its 38th meeting held on 18/09/2025, the petitioner has been posted against an equivalent post at one Mandan Bharti Krishi College, Agwanpur, Saharsa under the University upon his reversion from the post of Director, Extension Education under the University allegedly upon completion of his tenure against the said post;*

*(ii) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing that part of the office order dated 19/09/2025 bearing memo no. 754 issued by the University, by which one Dr. Sushil Kumar Pathak University Professor-cum-Chief Scientist (Agronomy) working in the services of the University has been authorized to discharge the duties attached to the post of Director, Extension Education of the University along with the administrative as well as financial powers of Director, Extension Education;*

*(iii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities to allow the petitioner to continue in the capacity of Director, Extension Education in the services of the University on the basis of his appointment having been made against the said post strictly in accordance with law on the basis of the decision taken by the concerned authorities under the Board of Management of the University during the relevant time way back in December, 2011 as is contained in notification dated 14/12/2011;*

*(iv) Issuance of a direction, order or*



*writ, including writ in the nature of mandamus commanding the concerned respondent authorities to allow the petitioner to continue in the services the University against the post of Director, Extension Education in accordance with law along with all consequential benefits strictly in accordance with the provisions contained under the Bihar Agricultural University Act, 2010 as well as the Statutes till the time he superannuates from the services of the said University;*

*(v) Issuance of an ad interim direction upon the concerned respondent authorities under the University to refrain from giving effect to the impugned order dated 19/09/2025 bearing memo no. 753 and order dated 19/09/2025 bearing memo no. 754 during the pendency of the present writ application and the operation of the same be stayed during the pendency of the instant writ petition.”*

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as Junior Scientist-cum-Assistant Professor in Animal Nutrition in the erstwhile Rajendra Agricultural University, Pusa on 20.03.1991 and, over the years, earned successive promotions to the posts of Senior Scientist-cum-Associate Professor and thereafter University Professor-cum-Chief Scientist on the basis of merit and recommendations of the competent authorities. During his service, he was also deputed as Director, BAMETI, Department of Agriculture, Government of Bihar.

It is further submitted that while serving as



Director, BAMETI, the petitioner applied pursuant to Advertisement No. 12/2011 (Annexure: P/1) issued by Bihar Agricultural University, Sabour for appointment to the post of Director, Extension Education. After undergoing a regular process of direct recruitment, his candidature was recommended by the duly constituted Selection Committee and approved by the Board of Management. Consequently, by Notification dated 14.12.2011 bearing memo no. 1427 (Annexure: P/2), the petitioner was appointed by direct recruitment to the substantive post of Director, Extension Education. It is contended that neither the advertisement nor the appointment notification described the post as a tenure post or prescribed any fixed term of appointment.

4. Learned counsel submits that at the time of the petitioner's appointment, the Bihar Agricultural University Statutes, 2010 had not come into force. The Board of Management through a meeting held on 09/12/2010 had resolved that until the new Statutes were framed and notified, the Statutes of the erstwhile Rajendra Agricultural University would govern the service conditions of the employees of Bihar Agricultural University, Sabour. Under the applicable Statutes, there was no provision treating the post of Director, Extension



Education as a tenure post. It is further submitted that although the petitioner executed an agreement at the time of joining, the same merely required him to abide by the Rules, Regulations, Statutes and the Act of the University as applicable from time to time and did not convert his substantive appointment into a tenure appointment.

5. It is further argued that by a notification dated 14/12/2011, an agreement was executed between the petitioner and the concerned authorities under the university and after the petitioner joined as Director, Extension Education on 21.01.2012, the University itself consistently treated his appointment as substantive. By Office Order dated 31.07.2015 bearing memo no. 601, it was specifically acknowledged that the petitioner's lien on his previous post had expired on 21.01.2014 and that he continued in the services of Bihar Agricultural University. Thereafter, by Office Order dated 27.01.2017, his pay was revised by granting advance increments under the relevant service rules, recognising the higher responsibilities attached to the post of Director, Extension Education over that of a University Professor-cum-Chief Scientist.

6. Learned counsel further submits that the Bihar



Agricultural University Statutes, 2010 were published in the Official Gazette only on 27.02.2017 and became operative prospectively from that date. Clause 13.2(c), which provides that the posts of Directors and Deans shall be filled by direct recruitment for a tenure of five years, cannot be applied retrospectively to appointments made several years earlier. According to the petitioner, his appointment, having been made in 2011 under the then prevailing statutory framework, could not be altered to his detriment by applying a subsequently notified provision.

7. It is further contended that the University itself had consistently adopted this interpretation. In response to a complaint received from the Governor Secretariat regarding the petitioner's continuance, the University, by Letter dated 05.03.2021 (Annexure: P/7), categorically informed the authorities that the petitioner's appointment was governed by the Statutes prevailing at the time of his appointment and that Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010 had no application to his case. Learned counsel submits that the University had, therefore, accepted that the provision regarding tenure appointments operated only prospectively.

It is next submitted that the same principle was



subsequently applied by the Board of Management in the case of Dr. Mirazul Haque, Registrar of the University. Although an order relieving him on completion of a purported tenure was initially issued, the Board of Management, in its meeting held on 08.08.2024, resolved that the provisions relating to tenure appointments would apply only prospectively from the date of publication of the Statutes in the Official Gazette and, consequently, rejected the earlier view.

8. Learned counsel submits that despite adopting this interpretation in an identical situation, the University arbitrarily departed from its own stand in the petitioner's case without assigning any valid reason, thereby subjecting the petitioner to hostile discrimination. It is further argued that despite the earlier decisions of the University, the matter was again placed before the Board of Management in its 37th meeting for obtaining legal opinion regarding the petitioner's appointment. Thereafter, in its 38th meeting, the Board resolved to treat the petitioner's appointment as tenure based solely upon the agreement executed at the time of joining. Acting upon the said decision, the impugned Office Order dated 19.09.2025 bearing Memo No. 753 (Annexure: P/11) was issued directing that on completion of the alleged tenure, the petitioner be



reverted and posted against an "equivalent post" of University Professor-cum-Chief Scientist at Mandan Bharti Krishi College, Agwanpur, Saharsa and that his salary would be drawn against such equivalent post.

9. Learned counsel submits that the impugned order is wholly arbitrary and without jurisdiction. It is contended that there exists no post equivalent to that of Director, Extension Education in the College. The Director is a statutory officer of the University whose position, under Section 18 of the Bihar Agricultural University Act, 2010, ranks above the Dean, Registrar and other officers, whereas the post on which he has been reverted to occupies an altogether different position. Therefore, the direction posting the petitioner against an equivalent post demonstrates complete non-application of mind.

It is further submitted that immediately thereafter, by Office Order dated 19.09.2025 bearing Memo No. 754, another officer, namely a University Professor-cum-Chief Scientist, was directed to discharge the duties of Director, Extension Education along with administrative and financial powers. Learned counsel submits that the petitioner was thus effectively removed from a higher statutory office and replaced without any authority of law. Learned counsel also contends that



the petitioner was never afforded any notice or opportunity of hearing before passing the impugned orders. The orders, therefore, have been passed in complete violation of the principles of natural justice. It is further argued that after expiry of the petitioner's lien in the year 2014, he does not hold any substantive post to which he could legally be repatriated. Consequently, the direction reverting him to an alleged equivalent post is not only legally unsustainable but is also incapable of implementation.

10. It is, therefore, submitted that the impugned action is contrary to the Bihar Agricultural University Act, 2010, the statutory scheme governing appointments, and the consistent stand earlier taken by the University itself. The action is alleged to be arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India. On these grounds, learned counsel prays for quashing of Office Orders dated 19.09.2025 bearing Memo Nos. 753 and 754, with all consequential benefits, and for permitting the petitioner to continue as Director, Extension Education in accordance with law.

11. *Per Contra*, learned counsel appearing for Respondent Nos. 2 to 5, namely the Bihar Agricultural University, opposes the writ petition and states that the



petitioner has suppressed material facts, made incorrect statements in the writ petition and has not approached this Court with clean hands. It is further submitted that the petitioner has an efficacious statutory alternative remedy under Section 19 of the Bihar Agricultural University Act, 2010 by way of appeal/representation before the Hon'ble Chancellor, which has admittedly not been availed.

12. Learned counsel further submits that the writ petition is liable to be dismissed on the additional ground that the petitioner has challenged only the consequential office orders dated 19.09.2025 but has failed to challenge the decision of the Board of Management taken in its 38th Meeting, whereby it was resolved to repatriate the petitioner to the equivalent post of University Professor-cum-Chief Scientist. According to the respondents, the impugned office orders merely give effect to the decision of the Board of Management and cannot be set aside independently.

It is also submitted that the central issue in the present case is whether the post of Director, Extension Education is a tenure post. Learned counsel contends that although the petitioner was appointed pursuant to Advertisement No. 12 of 2011, the advertisement itself clearly stipulated that



the selected candidate would execute a bond, could be transferred to an equivalent post within the University and that his service conditions would be governed by the University Act, Statutes, Rules and Regulations as amended from time to time.

13. Learned counsel submits that the petitioner's appointment dated 14.12.2011 was purely temporary and subject to probation for two years. It was specifically provided therein that his appointment would be governed by the agreement executed by him at the time of joining and by the Bihar Agricultural University Statutes as revised from time to time. In pursuance thereof, the petitioner executed an Agreement Bond on 21.01.2012 expressly agreeing to abide by the Rules, Regulations, Statutes and provisions of the University Act as amended from time to time. It is further contended that no order confirming the petitioner on the post of Director, Extension Education was ever issued and, therefore, his appointment never attained permanent status.

It is next submitted that prior to joining the post of Director, Extension Education, the petitioner had already been promoted in the erstwhile Rajendra Agricultural University to the post of University Professor-cum-Chief Scientist with effect from 20.03.2008. The respondents contend that upon his



absorption in Bihar Agricultural University, his pay was merely protected and re-fixed on the basis of such earlier promotion and no advance increments were granted on account of holding the post of Director, Extension Education, as alleged by the petitioner.

14 Learned counsel for Respondent no. 2 to 5 further submits that after the establishment of Bihar Agricultural University, the Statutes of Rajendra Agricultural University were adopted only as an interim arrangement until the Bihar Agricultural University Statutes, 2010 came into force. The said Statutes were notified on 27.02.2017 and published in the Official Gazette on 21.03.2017. Clause 13.2(c) thereof specifically provides that the posts of Directors and Deans are tenure posts for a period of five years. Since the petitioner's appointment was expressly made subject to the Statutes as amended from time to time, the said provision became applicable to him upon enforcement of the Statutes.

It is further argued that the tenure provision has been incorporated in conformity with the guidelines of the Indian Council of Agricultural Research (ICAR), the Model ICAR Act and the norms governing Agricultural Universities across the country. Learned counsel submits that the University



was granted accreditation by the National Agricultural Accreditation Board subject to adoption of the ICAR Model Act, including the requirement that senior administrative offices such as Directors and Deans should be tenure posts. Similar provisions are stated to exist in Dr. Rajendra Prasad Central Agricultural University, Banaras Hindu University and the Central Agricultural University, Imphal.

15. Learned counsel further submits that the petitioner was absorbed in the services of Bihar Agricultural University from his initial date of appointment and continued as an employee of the University. Since the post of Director is both an officer and a teacher under the Bihar Agricultural University Act and Statutes, the petitioner's service conditions necessarily became governed by the Bihar Agricultural University Statutes after their enforcement. Consequently, upon completion of the prescribed tenure, the Board of Management, after obtaining legal opinion and considering the relevant statutory provisions, resolved in its 38th Meeting to repatriate the petitioner to the equivalent post of University Professor-cum-Chief Scientist.

It is further submitted that the petitioner has been repatriated only to the post which he was substantively holding before his appointment as Director, Extension Education. The



equivalent post of University Professor-cum-Chief Scientist was available at Mandan Bharti Agricultural College, Agwanpur, Saharsa and the petitioner has been posted against the said post without any reduction in his pay scale, pay level or emoluments. According to the respondents, the pay scale of Director, Extension Education and University Professor-cum-Chief Scientist is identical and, therefore, no prejudice has been caused to the petitioner.

16. Learned counsel disputes the petitioner's allegation that the University itself had earlier taken a contrary stand regarding prospective applicability of Clause 13.2(c). It is submitted that the communication dated 05.03.2021 relied upon by the petitioner was merely a letter issued by the then Director (Administration) and was not in conformity with the statutory provisions governing the University. It is argued that the subsequent decision of the Board of Management, being the apex statutory body under the Act, alone governs the issue and overrides any earlier administrative communication.

The respondents also dispute the petitioner's reliance upon the alleged office order dated 14.08.2024 concerning Dr. Mirazul Haque. Learned counsel submits that the said document is false and fabricated and was never issued by



the University. According to the respondents, the Board of Management had in fact approved the repatriation of Dr. Mirazul Haque after completion of his tenure and the relevant proceedings and consequential communications have been placed on record. It is, therefore, contended that there has been no discrimination or inconsistent application of the statutory provisions.

17. Learned counsel further submits that the Board of Management considered the legal opinion regarding the status of the posts of Director, Extension Education and Director, Planning in its 38th Meeting and thereafter took a conscious decision to repatriate the petitioner in accordance with Clause 13.2(c) of the Statutes. It is contended that similar tenure appointments have since been made to various posts including Directors and Associate Deans-cum-Principals, thereby demonstrating uniform implementation of the Statutes throughout the University.

18. Responding to the petitioner's contention regarding violation of natural justice, learned counsel submits that the impugned action is merely a repatriation upon completion of tenure in terms of the statutory provisions and the conditions governing the petitioner's appointment. Since the



petitioner was reverted to his previous substantive post carrying the same pay scale and service benefits, no prior notice or opportunity of hearing was required.

It is lastly submitted that no violation of Articles 14, 16 or 21 of the Constitution has been made out. The petitioner has neither suffered any reduction in rank nor any financial loss and has merely been repatriated to the equivalent post of University Professor-cum-Chief Scientist in accordance with the Bihar Agricultural University Act, 2010, the Statutes framed thereunder, the terms of the advertisement, the appointment order and the Agreement Bond executed by him. Learned counsel, therefore, prays that the writ petition, being devoid of merit, be dismissed.

19. Learned counsel appearing on behalf of Respondent No. 1 (State) submits that the grievance of the petitioner essentially arises out of the decision taken by the Bihar Agricultural University, Sabour, whereby, in compliance with the resolution passed in the 38th Meeting of the Board of Management, the petitioner, upon completion of his tenure as Director, Extension Education, was posted against an equivalent post at Mandan Bharti Krishi College, Agwanpur, Saharsa and another officer was directed to discharge the duties of Director,



Extension Education.

20. Learned counsel further submits that by Office Order issued under Section 46(4) of the Bihar Agricultural University Act, 2010, the petitioner's previous service from 20.03.1991 was recognised and treated as valid after his absorption in the Bihar Agricultural University. It is also pointed out that the petitioner was granted advance annual increments under the relevant service rules on account of the additional responsibilities attached to the post of Director, Extension Education, such benefit being admissible to a University Professor-cum-Chief Scientist.

21. Learned counsel contends that the petitioner was appointed in the year 2011 under the then existing Statutes of Rajendra Agricultural University. At that point of time, neither the advertisement nor the applicable statutory provisions prescribed that the post of Director, Extension Education would be a tenure post. It is further submitted that the Bihar Agricultural University Statutes were notified only in the year 2017 and became effective from 21.03.2017. In view of Statute 1.2, the Statutes operate prospectively from the date of their publication and do not have retrospective operation.

It is, therefore, submitted that although Clause



13.2(c) of the Bihar Agricultural University Statutes, 2010 subsequently introduced a tenure of five years for the posts of Directors and Deans, the said provision could not govern appointments already made prior to the enforcement of the Statutes. Learned counsel also points out that the University itself, by Letter No. 1622 dated 05.03.2021 addressed to the Governor Secretariat, had taken the stand that the petitioner's appointment was not a tenure appointment.

22. Learned counsel further submits that Section 46(4) of the Bihar Agricultural University Act protects the service conditions of employees upon reorganisation of the University and does not permit any adverse alteration in such conditions to the detriment of an employee. It is also submitted that the Agriculture Department was not supplied with the agenda papers relating to the meetings of the Board of Management within the time prescribed under the Act and the relevant Rules. The Department had received only the minutes of the 38th Meeting without the agenda papers and, therefore, had requested the University to postpone the meeting. It is further submitted that no representative of the Agriculture Department participated in the 38th Meeting. Similar requests had earlier been made by the Department seeking the agenda



papers for the 37th Meeting of the Board of Management, but the same were not furnished by the University despite repeated communications.

**ISSUES IN QUESTION:**

1. Whether the writ petition is liable to be dismissed on the ground that the petitioner has challenged only the consequential Office Orders dated 19.09.2025 without specifically assailing the decision of the Board of Management taken in its 38th Meeting, which constitutes the foundation of the impugned action?

2. Whether the appointment of the petitioner to the post of Director, Extension Education, made through direct recruitment in the year 2011, is governed by the Statutes and service conditions existing on the date of his appointment, or whether Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010, notified in the year 2017, can be applied to treat his appointment as a tenure appointment of five years?

3. Whether the decision of the Board of Management and the consequential Office Orders dated 19.09.2025 repatriating the petitioner to an alleged equivalent post and authorising another officer to discharge the duties of Director, Extension Education are legally valid, particularly in



light of the petitioner's claim that no equivalent post exists, his lien had already expired, and no opportunity of hearing was afforded to him?

4. Whether the impugned action of the University is arbitrary, discriminatory and violative of the Bihar Agricultural University Act, 2010, the applicable Statutes and the principles of natural justice, particularly in view of the University's earlier stand regarding the prospective operation of the 2017 Statutes and its alleged treatment of similarly situated officers?

#### **FINDINGS:**

**Issue No. 1: Whether the writ petition is liable to be dismissed on the ground that the petitioner has challenged only the consequential Office Orders dated 19.09.2025 without specifically assailing the decision of the Board of Management taken in its 38th Meeting, which constitutes the foundation of the impugned action?**

#### **Finding on Issue No: 1**

It has been submitted by the respondent-University that the decision to repatriate the petitioner from the post of Director, Extension Education was taken by the Board of Management in its 38th Meeting and the said decision was



communicated vide Memo No. MB (38) Registrar/BAU Sabour/96 dated 18.09.2025 (Annexure-R/I). According to the respondents, the Office Orders dated 19.09.2025 are merely consequential orders issued in implementation of the aforesaid decision. It is, therefore, contended that in absence of any specific challenge to the decision of the Board of Management itself, the writ petition is not maintainable and deserves to be dismissed on this ground alone.

*Per contra*, the learned counsel for the petitioner submits that the objection raised by the respondents is wholly technical and does not go to the root of the matter. It is contended that the petitioner has specifically challenged the orders dated 19.09.2025 by which his legal rights have been affected and civil consequences have ensued. Once the consequential orders implementing the decision of the Board of Management are under challenge, the legality, validity and correctness of the decision forming the basis thereof necessarily become subject to judicial review. Merely because the petitioner has not separately sought quashing of the minutes or resolution of the 38th Meeting cannot render the writ petition non-maintainable.

Having considered the rival submissions, this Court



finds no merit in the objection raised by the respondents.

It is well settled that a writ court is concerned with the legality of the action complained of and not merely with the form in which relief has been couched. The Office Orders dated 19.09.2025 are not independent administrative actions but are the direct implementation of the decision allegedly taken in the 38th Meeting of the Board of Management. Therefore, once the consequential orders have been assailed as being contrary to law, the Court is competent to examine the validity of the foundational decision on which those orders are based. If the foundation itself is found to be legally unsustainable, the consequential orders cannot survive merely because the foundational decision has not been separately challenged in explicit terms.

This Court also finds it significant that Respondent No.1, namely the State Government, has itself brought on record circumstances casting doubt on the manner in which the 38th Meeting of the Board of Management was conducted. In its counter affidavit, the State has categorically stated that the Agriculture Department had received only the minutes of the proposed meeting and not the agenda papers. It has further been stated that the Department, by Letter No. 4248 dated



15.09.2025, requested the University to defer the meeting, as the agenda had not been supplied in accordance with the prescribed procedure. It has also been specifically pleaded that no representative of the Agriculture Department participated in the 38th Meeting and that despite earlier communications, even the agenda of the 37th Meeting had not been furnished by the University. These averments have not been satisfactorily explained by the respondent University.

Though this Court is not deciding the legality of the 38th Meeting solely on the aforesaid procedural aspects, these facts undoubtedly provide sufficient reason to examine the consequential action with greater scrutiny rather than rejecting the writ petition on a technical objection.

More importantly, the real controversy involved in the present case is not confined to the validity of a resolution passed by the Board of Management. The principal issue requiring adjudication is whether the appointment of the petitioner made in the year 2011 could legally be converted into a tenure appointment by applying Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010 after its publication in the year 2017. That issue raises substantial questions concerning the interpretation of the statutory provisions, the service rights of



the petitioner and the legality of the University's action. Such questions cannot be left undecided merely because the petitioner has challenged the consequential orders instead of separately challenging the Board resolution.

It is equally relevant to note that the decision of the Board of Management by itself did not alter the petitioner's service conditions. It was only after issuance of the Office Orders dated 19.09.2025 that the petitioner was actually repatriated and another officer was authorised to discharge the functions of Director, Extension Education. It is these office orders which gave rise to the immediate cause of action and adversely affected the petitioner's rights. The challenge to those orders, therefore, is sufficient to invite judicial review of the decision on which they are founded.

The jurisdiction of this Court under Article 226 of the Constitution is intended to advance substantial justice and not to defeat legitimate grievances on hyper-technical grounds of pleadings. Where the legality of the consequential orders necessarily depends upon the legality of the foundational decision, the Court is fully competent to examine both while adjudicating the writ petition. It is clarified that the aforesaid view is expressed in the special factual matrix of the case and



shall not be treated as a general proposition of law for other cases in which the cause of action complained of is not based on complete lack of foundational pleadings.

Accordingly, this issue is answered in favour of the petitioner. This Court holds that the writ petition cannot be dismissed merely because the petitioner has not specifically challenged the decision of the Board of Management taken in its 38th Meeting. The objection raised by the respondents is technical and superficial in nature. Since the impugned Office Orders dated 19.09.2025 are founded upon the said decision and have given rise to the civil consequences complained of, this Court is competent to examine the legality of the entire decision-making process while exercising its writ jurisdiction. The objection, therefore, stands rejected.

**Issue No. 2:**

**Whether the appointment of the petitioner to the post of Director, Extension Education, made through direct recruitment in the year 2011, is governed by the Statutes and service conditions existing on the date of his appointment, or whether Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010, notified in the year 2017, can be applied to treat his appointment as a tenure appointment of five years?**



**Finding on Issue No. 2:** This issue goes to the root of the present controversy. The answer to this issue depends upon the nature of the petitioner's appointment, the statutory framework prevailing on the date of his appointment, the effect of the Bihar Agricultural University Statutes, 2010 notified subsequently and the intention of the University as reflected from its own records.

The admitted facts are that the petitioner was appointed as Director, Extension Education pursuant to Advertisement No. 12 of 2011 issued by Bihar Agricultural University, Sabour. It is also not in dispute that after undergoing a regular process of selection, his appointment was approved by the Board of Management and Notification dated 14.12.2011 was issued appointing him by way of direct recruitment against the post of Director, Extension Education. The petitioner joined the said post on 21.01.2012.

A perusal of Advertisement No. 12 of 2011 (Annexure-P/1) does not disclose that the post of Director, Extension Education was advertised as a tenure post. Neither the advertisement nor the eligibility conditions nor any of the terms and conditions stipulated that the appointment would automatically come to an end after expiry of five years or any



other fixed period. The respondents have placed considerable reliance upon Clauses 11, 13 and 14 of the advertisement, which required the selected candidate to execute a bond, permitted transfer to an equivalent post and provided that the service conditions would be governed by the Act, Statutes, Rules and Regulations as amended from time to time. Likewise, reliance has been placed upon Clause 6 of the appointment notification and the Agreement Bond executed by the petitioner on 21.01.2012.

This Court has carefully considered the aforesaid documents. The appointment notification dated 14.12.2011 (Annexure-P/2) nowhere records that the appointment is purely for a tenure of five years. On the contrary, it specifically states that the petitioner was appointed through direct recruitment. The relevant portion of the appointment notification reads as follows:

*“2. This appointment is by direct recruitment.*

*3. He will be on probation for a period of two years from the date of joining against the post of Director Extension Education. During the period of probation his services are liable to be terminated for indiscipline/unsatisfactory performance on one month's notice.”*



Similarly, the Agreement Bond dated 21.01.2012 (Annexure-P/4) merely obligates the petitioner to serve the University for a minimum period of three years and to abide by the provisions of the Act, Rules, Regulations and Statutes as amended from time to time. The relevant clauses read as follows:

*“(i) That the FIRST PARTY shall serve the University for a minimum period of **three years** faithfully and sincerely with due diligence in accordance with the provisions of the Rules, Regulations, Statutes and Act of the University and the standing instructions issued by the competent authorities from time to time*

*(ii) That during the period of three years from the date of joining the University, the FIRST PARTY shall not seek employment with any other agency, authority or organization nor shall he/she submit any application for outside employment during the period of the service agreement.*

*(iii) That the FIRST PARTY shall abide by the Rules, Regulations, Statutes and the provisions of the University Act, as amended from time to time and that these amendments shall be binding on the FIRST PARTY.”*

In the considered opinion of this Court, the



aforesaid stipulations cannot be construed as converting an otherwise substantive appointment into a tenure appointment. The clause requiring an employee to abide by future amendments in service rules is a general service condition intended to regulate service matters. Such a clause, by itself, cannot be interpreted to authorise retrospective alteration of the very nature of an appointment, unless the statute expressly provides for such consequence.

It is well settled that unless a statute expressly or by necessary implication provides for retrospective operation, it is presumed to operate prospectively. This principle is particularly applicable where the amendment affects vested rights or materially alters existing service conditions. The Bihar Agricultural University Statutes, 2010 were admittedly notified on 27.02.2017 and published in the Official Gazette on 21.03.2017. Article 1.2 of the Statutes specifically provides that the Statutes shall come into force from the date of their publication in the Official Gazette. There is no provision in the Statutes declaring that appointments already made before their enforcement would automatically stand converted into tenure appointments.

The respondents have relied upon Clause 13.2(c) of



the Statutes, which prescribes that the posts of Directors and Deans shall be filled through direct recruitment for a tenure of five years. The relevant provision reads as follows:

*“The post of Deans/Directors will filled up through direct recruitment for a tenure of five years which may be extended in exceptional cases on recommendation of the Vice-Chancellor by the Board of Management till fresh appointment is made on term whichever is earlier.”*

A plain reading of Clause 13.2(c) shows that it prescribes the mode of future appointments to the posts of Directors and Deans. It does not contain any language suggesting that appointments already made years before the Statutes came into force shall retrospectively be treated as tenure appointments. Had the legislature intended to disturb existing appointments, it would have incorporated a specific transitional provision or saving clause to that effect. The absence of such a provision assumes significance. The Hon’ble Apex Court in the case of ***P. Mahendran Vs. State of Karnataka (1990) 1 SCC 411*** has observed herein:

“11..... If a candidate applies for a post in response to advertisement issued by Public Service Commission in accordance with recruitment Rules he acquires



*right to be considered for selection in accordance with the then existing Rules. This right cannot be affected by amendment of any rule unless the amending rule is retrospective in nature. In the instant case the Commission had acted in accordance with the then existing rules and there is no dispute that the appellants were eligible for appointment, their selection was not in violation of the recruitment Rules. The Tribunal in our opinion was in error in setting aside the select list prepared by the Commission.”*

**(Emphasis Supplied)**

The factual matrix also supports the petitioner's case. The minutes of the first meeting of the Board of Management held on 09.12.2010 (Annexure-P/3) clearly reveal that until the Bihar Agricultural University Statutes were framed, the Statutes of the erstwhile Rajendra Agricultural University would govern the service conditions of the employees. Admittedly, under the Rajendra Agricultural University Statutes, the post of Director, Extension Education was not a tenure post.

The conduct of the University after the petitioner's appointment also assumes considerable importance. By Office Order dated 31.07.2015 (Annexure-P/5), the University



acknowledged that the petitioner's lien on his previous post had expired and permitted him to continue in the services of Bihar Agricultural University. At no point did the University indicate that his appointment was tenure based or liable to expire automatically after five years. Likewise, Office Order dated 27.01.2017 (Annexure-P/6) revising the petitioner's pay proceeds on the basis that he continued to hold the office of Director, Extension Education. Nothing in the said order suggests that the University itself regarded the petitioner's appointment as a fixed-term appointment.

The most significant circumstance is the communication issued by the University itself vide Letter No. 1622 dated 05.03.2021 (Annexure-P/7) addressed to the Governor Secretariat. In the said communication, the University categorically explained that the petitioner's appointment had been made pursuant to Advertisement No. 12 of 2011 under the then prevailing statutory framework and that Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010 would not govern his appointment. The relevant portion reads as follows:

“उपरोक्त तथ्यों से स्पष्ट है कि वर्ष 2017 में अधिसूचित बिहार कृषि विश्वविद्यालय परिनियम में नियुक्ति के निमित्त विहित चयन प्रक्रिया पूर्व के वर्षों में हुई नियुक्ति को प्रभावित नहीं कर सकेगा। एतदनुरूप से डॉ. रविद्रे कुमार सोहाने की सेवा की निरन्तरता निदेशक प्रसार शिक्षा के पद पर बनी हुई है।”



This communication is not merely an opinion of an individual officer. It constitutes a contemporaneous official explanation furnished by the University itself while dealing with the very issue presently in dispute. Such contemporaneous interpretation of statutory provisions by the authority responsible for implementing them carries persuasive value.

A distinction has to be maintained between regulation of service conditions and alteration of the character of the appointment itself. While service rules relating to pay, leave, disciplinary proceedings, pension and other incidents of service may legitimately operate upon existing employees, the conversion of a substantive appointment into a tenure appointment resulting in curtailment of the tenure of office is a matter of substantive right. Such a consequence cannot be inferred merely from a general clause requiring compliance with future amendments, particularly in the absence of express statutory language. The Court also finds merit in the petitioner's submission that the appointment notification, advertisement and the statutory provisions existing in the year 2011 formed the foundation of his appointment. Those conditions could not subsequently be altered to his disadvantage by implication alone.



For all the aforesaid reasons, this Court holds that the petitioner's appointment to the post of Director, Extension Education is governed by the statutory provisions and service conditions existing on the date of his appointment. Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010, which came into force only upon publication of the Statutes in the Official Gazette in the year 2017, operates prospectively and cannot be applied retrospectively so as to convert the petitioner's substantive appointment made in the year 2011 into a tenure appointment of five years.

Accordingly, Issue No. 2 is answered in favour of the petitioner.

### **Issue No. 3**

**Whether the decision of the Board of Management and the consequential Office Orders dated 19.09.2025 repatriating the petitioner to an alleged equivalent post and authorising another officer to discharge the duties of Director, Extension Education are legally valid, particularly in light of the petitioner's claim that no equivalent post exists, his lien had already expired, and no opportunity of hearing was afforded to him?**

**Findings on Issue no. 3:** Having held while



deciding Issue No. 2 that the petitioner's appointment to the post of Director, Extension Education was not a tenure appointment and that Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010 could not be applied retrospectively, the legality of the impugned decision of the Board of Management and the consequential office orders now falls for consideration.

The impugned Office Order dated 19.09.2025 bearing Memo No. 753 (Annexure-P/11) records that pursuant to the decision taken by the Board of Management in its 38th Meeting, the petitioner stood repatriated upon completion of his tenure and was posted against an "equivalent post" at Mandan Bharti Krishi College, Agwanpur, Saharsa. By another Office Order of the same date bearing Memo No. 754 (Annexure-P/12), Dr. Sushil Kumar Pathak, University Professor-cum-Chief Scientist, was authorised to discharge the duties attached to the office of Director, Extension Education along with its administrative and financial powers.

The legality of the aforesaid action has to be examined on the basis of the statutory provisions governing the University and the factual circumstances borne out from the record. The principal contention of the petitioner is that there exists no equivalent post to that of Director, Extension



Education in any constituent college of the University. It has been argued that the post of Director is a statutory office created under the Bihar Agricultural University Act, 2010 and occupies a distinct position in the administrative hierarchy of the University.

This submission deserves acceptance. Section 18 of the Bihar Agricultural University Act, 2010 enumerates the officers of the University. A plain reading of the said provision shows that after the Chancellor and the Vice-Chancellor, the Directors of the University find place in the statutory hierarchy, followed by the Deans, Registrar, Comptroller and other officers. The statutory position of the Director, therefore, is distinct from the teaching positions available in the constituent colleges of the University. The respondents have not placed any statutory provision, Regulation or Schedule demonstrating that the post of University Professor-cum-Chief Scientist is legally equivalent to the statutory office of Director, Extension Education. The respondents have principally relied upon the fact that both posts carry the same pay level and that the petitioner has suffered no financial loss. However, equivalence in service jurisprudence cannot be determined merely on the basis of identical pay scales. Nature of duties, statutory status, powers,



responsibilities, administrative control, channel of promotion and place in the organisational hierarchy are equally relevant considerations.

In the present case, the material placed on record indicates that the office of Director, Extension Education carries independent administrative as well as financial responsibilities. This is also evident from Office Order dated 19.09.2025 bearing Memo No. 754 whereby another officer was specifically authorised to discharge the administrative and financial powers attached to the office of Director, Extension Education.

If the office of Director, Extension Education was truly equivalent to the post of University Professor-cum-Chief Scientist, there would have been no necessity to separately confer the statutory and administrative powers of the Director upon another officer. The very issuance of Office Order No. 754 demonstrates that the office of Director carries powers and responsibilities independent of the teaching post against which the petitioner has been repatriated.

The respondents have also relied upon Clause 13 of Advertisement No. 12 of 2011, which provides that the selected candidate may be transferred to an equivalent post within the jurisdiction of the University. The said clause cannot advance



the respondents' case. The power to transfer against an equivalent post necessarily presupposes the existence of a legally recognised equivalent post. Such a clause cannot authorise the employer to treat two dissimilar statutory offices as equivalent merely because they carry the same pay scale. In the absence of any statutory material establishing such equivalence, the impugned order cannot be sustained on that basis alone.

Another significant aspect concerns the petitioner's lien. The record discloses that by Office Order dated 31.07.2015 (Annexure-P/5), the University itself acknowledged that the petitioner's lien against his earlier post had expired on 21.01.2014. The relevant portion of the said office order reads as follows:

*"डॉ. आर. के. सोहाने, निदेशक प्रसार शिक्षा, बिहार कृषि विश्वविद्यालय, सबौर के पद पर ग्रहणाधिकार के आधार पर कार्यरत थे। ग्रहणाधिकार की अवधि दिनांक: 21.01.2014 को समाप्त हो गयी परन्तु वे राजेन्द्र कृषि विश्वविद्यालय, पूसा की सेवा में वापस नहीं गये।*

*प्रधान सचिव, बिहार सरकार, कृषि विभाग की अधिसूचना संख्या 4/सचिवा कृ.वि.-13/2011 (खण्ड)-181/कृ. पटना दिनांक 12.01.2015 ज्ञापांक 222 दिनांक: 14.01.2015 द्वारा परस्पर आमेलन पर प्रश्नगत शिक्षकों/वैज्ञानिकों को विश्वविद्यालय आवंटित करते हुए यह निर्णय लिया गया कि जो वैज्ञानिक/शैक्षणिक कर्मी जिस कृषि विश्वविद्यालय में कार्य कर रहे हैं वे उसी*



*विश्वविद्यालय की सेवा में बने रहेंगे।"*

The respondents have attempted to justify the repatriation by contending that the petitioner has merely been sent back to the post of University Professor-cum-Chief Scientist, which he had earlier held.

This submission cannot be accepted. The concept of repatriation ordinarily presupposes the existence of a substantive post or lien to which the employee can legally return. Once the respondents themselves recognised that the petitioner's lien had ceased in the year 2014 and that he thereafter continued in the services of Bihar Agricultural University, there remained no legal foundation for repatriating him after more than a decade on the assumption that he continued to possess a right over his previous post. The respondents have relied upon the notification issued by Rajendra Agricultural University granting promotion to the petitioner as University Professor-cum-Chief Scientist. However, that notification by itself does not establish the continued existence of a lien after the University itself had declared the lien to have expired.

The Court also finds substance in the petitioner's contention regarding violation of the principles of natural



justice. It is an admitted position that before issuance of Office Orders dated 19.09.2025, no notice was issued to the petitioner and no opportunity of hearing was afforded to him. The respondents have argued that since the impugned action merely amounted to repatriation under the terms of appointment, no hearing was required. The submission is difficult to accept. The impugned orders do not merely regulate the petitioner's place of posting. They remove the petitioner from a statutory office which he had been holding continuously since January, 2012, deprive him of the administrative and financial powers attached to that office and simultaneously authorise another officer to discharge those functions.

An action having such serious civil consequences could not have been taken without observing the minimum requirements of fairness. Even where a statute is silent, compliance with the principles of natural justice is ordinarily required unless specifically excluded either expressly or by necessary implication. No such exclusion has been brought to the notice of this Court. The respondents have also not produced any material to show that the petitioner was associated with the decision-making process or was afforded an opportunity to explain his case before the Board of Management arrived at its



conclusion.

For all the aforesaid reasons, this Court is of the considered view that the decision of the Board of Management dated 18.09.2025, insofar as it directs repatriation of the petitioner to an alleged equivalent post, and the consequential Office Orders dated 19.09.2025 bearing Memo Nos. 753 and 754 cannot be sustained in law. The respondents have failed to establish the existence of any legally equivalent post to that of Director, Extension Education, have acted contrary to their own earlier determination regarding expiry of the petitioner's lien, and have passed the impugned orders without affording the petitioner any opportunity of hearing despite the serious civil consequences flowing therefrom.

Accordingly, Issue No. 3 is answered in favour of the petitioner.

#### **Issue No. 4**

**Whether the impugned action of the University is arbitrary, discriminatory and violative of the Bihar Agricultural University Act, 2010, the applicable Statutes and the principles of natural justice, particularly in view of the University's earlier stand regarding the prospective operation of the 2017 Statutes and its alleged treatment of**



**similarly situated officers?**

**Findings on Issue No.4:** This issue goes to the root of the controversy as it concerns the legality of the decision-making process adopted by the University and whether the impugned action satisfies the constitutional requirements of fairness, equality and non-arbitrariness. The learned counsel for the petitioner submits that the impugned Office Orders dated 19.09.2025 are the result of an arbitrary and discriminatory exercise of power by the University and are liable to be quashed as being contrary to the provisions of the Bihar Agricultural University Act, 2010, the applicable Statutes and Articles 14 and 16 of the Constitution of India.

It is submitted that the petitioner was appointed as Director, Extension Education pursuant to Advertisement No. 12 of 2011 through a regular process of direct recruitment after recommendation of the duly constituted Selection Committee and approval of the Board of Management. At the time of such appointment, neither the applicable Statutes nor the advertisement prescribed that the post was a tenure post. The petitioner thereafter continuously discharged the duties of the said office for more than thirteen years without any objection from the University regarding the nature of his appointment.



It is further submitted that even after publication of the Bihar Agricultural University Statutes, 2010 in the Official Gazette in the year 2017, the University itself consistently proceeded on the footing that the newly introduced tenure provisions would operate prospectively and would not affect appointments already made. In this regard, reliance has been placed upon the communication issued by the Director (Administration), Bihar Agricultural University bearing Memo No. 1622 dated 05.03.2021 (Annexure-P/7), addressed to the Governor Secretariat, wherein the University itself categorically recorded that the petitioner's appointment had been made pursuant to Advertisement No. 12 of 2011 under the then prevailing Statutes and, therefore, Clause 13.2(c) of the 2017 Statutes regarding five-year tenure was not applicable to him.

The learned counsel submits that the said communication constitutes an official and conscious interpretation adopted by the University itself regarding the applicability of Clause 13.2(c). In absence of any subsequent statutory amendment having retrospective effect, the University could not arbitrarily depart from its own earlier interpretation without assigning any cogent reason.

The petitioner further relies upon the proceedings



relating to Dr. Mirajul Haque, who was similarly appointed before the publication of the 2017 Statutes. It is submitted that although an initial office order dated 10.08.2023 sought to repatriate Dr. Mirajul Haque by treating his appointment as tenure based, the Board of Management, in its 36th Meeting held on 08.08.2024, reconsidered the matter and resolved that the tenure provisions introduced under Clause 13.2(c) would operate only prospectively and would not apply retrospectively to appointments made prior to publication of the Statutes.

According to the petitioner, this decision clearly demonstrates that the University itself had accepted the prospective operation of the 2017 Statutes. Therefore, adopting an entirely contrary interpretation only in the case of the present petitioner amounts to hostile discrimination without any rational basis.

The respondents have attempted to explain this apparent inconsistency by asserting in their Counter Affidavit that Annexure-P/9 is fabricated and that the Board of Management had in fact approved the repatriation of Dr. Mirajul Haque. They have relied upon Annexure-R/K in support of such contention. However, it is submitted on behalf of the petitioner that irrespective of the rival claims regarding the correctness of



Annexure-P/9, the official communication issued by the University itself vide Memo No.1622 dated 05.03.2021 (Annexure-P/7) unequivocally records that the petitioner's appointment would continue to be governed by the legal regime existing at the time of his appointment. The respondents have merely stated that the said communication was "not in consonance" with the Statutes, but no statutory provision has been pointed out authorising the University to retrospectively alter the service conditions of an employee already appointed.

The learned counsel further submits that the decision impugned in the present proceedings also suffers from procedural arbitrariness. The petitioner was never issued any notice before altering his service conditions. No show cause notice was served, no explanation was called for and no opportunity of personal hearing was granted before directing his reversion from the office of Director, Extension Education.

The respondents have sought to justify the absence of hearing by contending that repatriation in terms of the Statutes did not require observance of the principles of natural justice.

The petitioner disputes the said submission by contending that the impugned action was not a routine



administrative transfer but involved civil consequences. The petitioner had continuously held the office of Director, Extension Education for over thirteen years, his lien over his previous post had admittedly expired, and the impugned decision substantially altered his service position and status. In such circumstances, compliance with the principles of natural justice became an indispensable requirement.

The learned counsel also submits that the impugned decision appears to have been taken without complete consideration of all relevant materials. Respondent No.1, namely the State Government, has specifically stated in its Counter Affidavit that the Agriculture Department had not received the agenda papers of the 37th and 38th Meetings of the Board of Management within the prescribed period. It has further been stated that the Department had requested postponement of the meeting and that no representative of the Agriculture Department participated in the 38th Meeting. Reference has been made to Letter No.1298 dated 01.09.2025, Letter No.4248 dated 15.09.2025, Letter No.4527 dated 09.10.2025 and Letter No.86 dated 09.01.2025, copies whereof have been annexed by Respondent No.1. It is therefore submitted that even the procedure followed by the Board of



Management before taking the impugned decision was itself questioned by the Agriculture Department.

The learned counsel therefore submits that the impugned action cannot be sustained merely because it was approved by the Board of Management. Every administrative decision of the Board must satisfy the requirements of legality, fairness, reasonableness and equality. A decision which departs from the University's own earlier interpretation without rational justification, treats similarly situated officers differently, ignores relevant materials and adversely affects an employee without affording an opportunity of hearing cannot be sustained in law.

The respondents, on the other hand, contend that the Board of Management is the highest statutory authority under the Bihar Agricultural University Act, 2010 and was fully competent to take the impugned decision after obtaining legal opinion. It is submitted that the decision was taken uniformly to implement Clause 13.2(c) of the Statutes and to bring the University in conformity with the ICAR Model Act and UGC guidelines. According to the respondents, no discrimination has been practised against the petitioner, his pay and service benefits remain fully protected and he has merely been repatriated to the equivalent post of University Professor-cum-Chief Scientist.



The respondents further deny that the petitioner was entitled to any prior hearing, contending that the impugned order merely implements the tenure provisions applicable to the post and does not amount to any punitive action.

For the reasons recorded hereinabove, this Court is satisfied that the impugned action of the University is arbitrary, discriminatory and contrary to the provisions of the Bihar Agricultural University Act, 2010, the applicable Statutes and the principles of natural justice. The respondents have failed to justify the inconsistent application of the statutory provisions or the departure from their own earlier stand.

Accordingly, this issue is answered in favour of the petitioner and against the respondents.

23. In view of the findings recorded on the issues framed hereinabove, this Court is of the considered opinion that the impugned decision of the Board of Management treating the petitioner's appointment as a tenure appointment by applying Clause 13.2(c) of the Bihar Agricultural University Statutes, 2010 to an appointment made in the year 2011 cannot be sustained in law. The action of the respondent University in issuing Office Order dated 19.09.2025 bearing Memo No. 753, whereby the petitioner was repatriated to an alleged equivalent



post, and the consequential Office Order dated 19.09.2025 bearing Memo No. 754 authorising another officer to discharge the duties of Director, Extension Education, is held to be arbitrary, discriminatory, contrary to the Bihar Agricultural University Act, 2010 and the applicable Statutes, and violative of the principles of natural justice.

24. Accordingly, both the aforesaid office orders are hereby quashed. The respondents are directed to restore the petitioner to the post of Director, Extension Education with all consequential service benefits and continuity of service within a period of two months from the date of receipt/production of a copy of this judgment.

25. The writ petition is, accordingly, allowed. There shall be no order as to costs.

**(Alok Kumar Sinha, J)**

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