

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.683 of 2023

In

Civil Writ Jurisdiction Case No.808 of 2019

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1. The State of Bihar through its Principal Secretary Human Resource Development Department Govt. of Bihar, Patna
 2. The Director Higher Education Department Govt. of Bihar, Patna.

... .. Appellant/s

Versus

1. Ghanshyam Jha Son of Late Harikant Jha Resident of Village-Maranchi Khurd, P.S. Bachhawara, District-Begusarai, At Present Posted as Assistant Professor in Sahitya Department of Saraswati Bilash Sanskrit Collge Shokahara, Barouni, Begusarai
2. Indradeo Jha Son of Late Kamdev Jha Resident of Village-Dhuriakha, P.S. Mufasil (Samastipur), District-Samastipur, At present Posted in History Department of Saraswati Bilash Sanskrit Collge Shokahara, Barouni, Begusarai
3. Rudranand Jha Son of Late Visheshwar Jha Resident of Village-Hulash, P.S. Raghapur, Dist.-Supoul. At Present Posted as Assistant Professor in Vyakaran Department of Saraswati Bilash Sanskrit Collge Shokahara, Barouni, Begusarai
4. Raj Kumar Jha Son of Late Gangadhar Jha Resident of Village-Rahimpur rudouli, P.S. Mufasil (Samastipur) District-Samastipur. At Present Posted as Assistant Professor in Economics Department of Saraswati Bilash Sanskrit College Shokahara, Barouni, Begusarai
5. Chandrabhushan Trivedi Son of Late Krishna Nand Trivedi Resident of Village-Madhurapur, P.S. Teghra, District-Begusarai. At Present Posted as Assistant Professor in Sanskrit College Shokahara, Barouni, Begusarai
6. Narayanj Upadhyay Son of Ramprapannacharaye, Resident of Village-Basaukaia, P.S. Sikroul Lakh, District-Buxar. At Present Posted as Assistant Professor in Sahitya Department of Shri Niwas Mukund Ramanuj Sanskrit College, Basawankala, Buxar
7. Vashistha Narayan Ojha Son of Late Ramchandra Ojha Resident of Village-Gadhiyan, P.S. Sikroul Lakh, District-Buxar. At present posted as Assistant Professor in Political Science Department of Shri Niwas Mukund Ramanuj Sanskrit College, Basawankala, Buxar
8. Hari Narayan Pandey Son of Late Rampujan Pandey Resident of Village-Geruabandh, P.S. Itarhi, District-Buxar. At Present Posted as Assistant Professor in Hindi Department of Shri Niwas Mukund Ramanuj Sanskrit College, Basawankala, Buxar
9. Chhavinath Tripathi Son of Late Mahesh Tripathi Resident of Village-



- Chikhuriya,P.S. Chenari,Dist.-Rohtas. At Present Posted as Assistant Professor in Vyakaran Department of Shri Niwas Mukund Ramanuj Sanskrit College, Basawankala, Buxar
10. Daya Shankar Tiwari Son of Late Raghunath Tiwari Resident of Village-Tiwaripur,P.S. Barisar,District-Gajipur(U.P.). At Present Posted as Assistant Professor in Sanskrit Department of Shri Niwas Mukund Ramanuj Sanskrit College, Basawankala, Buxar
 11. Raghu Nandan Jha Son of Late Dasharath Jha Resident of Village-Jhandapur,P.S. Bihpur,Dist.Bhagalpur. At Present Posted as Assistant Professor in Vyakaran Department of Goswami Lakshminath Madhusudan Sanskrit College Bangawan,Saharsa.
 12. Bal Ram Jha Son of Late Budhan Jha Resident of Village-Lalmanpatti,P.S. Ratanpur,District-Supoul. At Present Posted as Assistant Professor in Jyotish Department of Goswami, Lakshminath Madhusudan Sanskrit College, Bangawan, Saharsa
 13. Hari Mohan Khan Son of Late Ramsundar Khan Resident of Village-Bangawn,P.S. Bangawn,District-Saharsa. At Present Posted as Assistant Professor in Maithili Department of Goswami Lakshminath Madhusudan Sanskrit College, Bangawan, Saharsa
 14. Gulab Chandra Mishra Son of Late Bhallar Mishra Resident of Village-Lagma Rambhadrapur,P.S. Sakatpur,Dist.-Darbhanga. At Present Posted as Assistant Professor in Sahitya Department of Kirti Narayan Kamakhya Sanskrit College Maharail, Madhubani
 15. Khelanath Jha Son of Late Medhanath Jha Resident of Village-Raiyam,P.S. Bhairawsthan,District-Madhubani. At Present Posted as Assistant Professor in English Department of Kirti Narayan Kamakhya Sanskrit College Maharail, Madhubani
 16. Nagedndra Kumar Jha Son of Late Rameshwar Jha Resident of Village-Ranipur,P.S. Benipatti,District-Madhubani. At Present Posted as Assistant Professor in English Department of Devshnakar Haldhar Chaudhary Sanskrit College Chanpura, Madhubani
 17. Shivchandra Jha Son of Late Maneshwar Jha Resident of Village-Sarisav,P.S. Benipatti,Disttict-Madhubani. At Present Posted as Assistant Professor in Vyakaran Department of Devshankar Haldhar Chaudhary Sanskrit College Chanpura, Madhubani
 18. Pramod Kumar Jha Son of Late Ramlakhan Jha Resident of Village-Piprahi Punarwas,P.S. Purnahiya,Dist. Sitamadhi. At Present Posted as Assistant Professor in Political Science Department of Gurukul Sanskrit College Bairgania, Sitamadhi.
 19. Neelambar Jha Son of Late Rewati Kant Jha Resident of VillageTelhara Kala,P.S. Kundwa Chaipur,District-East Champaran. At Present Posted as Assistant Professor in Vyakaran Department of Sanskrit College Rosera (Samastipur)



20. Suresh Mishra Son of Late Eknath Mishra Resident of Village-Gharwara,P.S. Supi,District-Sitamarhi. At Present Posted as Assistant Professor in Sahita Department of Gurukul Sanskrit College Bairgania, Sitamarhi.
21. Umanath Rai Son of Late Gangadhar Rai Resident of Village-Dharha,P.S. Rosera,District-Samastipur. At Present Posted as Assistant Professor in Vyakaran Department of Sanskrit College Rosera (Samstipur)
22. The Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
23. The Vice -Chancellor Kameshwar Singh Darbhanga. Sanskrit University, Darbhanga
24. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... ... Respondent/s

with
Letters Patent Appeal No. 690 of 2023
In
Civil Writ Jurisdiction Case No.250 of 2019

1. The State of Bihar.
2. The Additional Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Education Department, Govt. of Bihar, Patna.

... ... Appellant/s

Versus

1. Balram Pandey son of Late Dhanushdhari Pandey, Resident of Village Jaitiya, P.O.-Jaitiya, P.S.-Chanpatiya, District-West Champaran.
2. The Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga through its Vice Chancellor.
3. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
5. The Secretary, Harihar Sanskrit College, Bakulahar Math, Chanpatiya, District-West Champaran.
6. The Principal Harihar Sanskrit College, Bakulahar Math, Chanpatiya, District-West Champaran.

... ... Respondent/s



Appearance :

(In Letters Patent Appeal No. 683 of 2023)

For the Appellant/s : Mr. Sarvesh Kumar Singh, AAG- 13
Mr. Ravi Kumar, A.C. to A.A.G.13
For Respondent Nos. 1 to 21 : Mr. Sanjeev Kumar Jha, Advocate
For the KSDS University : Mr. Nagendra Kumar Singh, Advocate

(In Letters Patent Appeal No. 690 of 2023)

For the Appellant/s : Mr. Sarvesh Kumar Singh, Sr. Advocate
Mr. Ravi Kumar, A.C. to A.A.G.13
For the Respondent/s : Mr. Prashant Sinha, Advocate
Mr. Satish Kumar Pandey, Advocate
For the KSDS University : Mr. Nagendra Kumar Singh, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 30-04-2025

Both the appeals preferred on behalf of the State have been taken up together and are being disposed off by this common judgment.

2. We have heard the learned counsel for the parties.

3. Several of the teachers of private degree colleges had come before this Court *vide* different writ petitions seeking a direction to the State to release funds to the University, which could be utilized for paying their salaries.

4. In almost all the writ petitions, positive



orders were passed, but to no avail.

5. A learned Single Judge, hearing the writ petitions, later found that an amendment has been brought about in the year 2015 in the Bihar Universities Act, 1976 (*in short the Act of 1976*), modifying Section 57-A of the Act and adding sub-Section 6, which reads as follows:

“The Selection Committee, subject to this Act, will complete the scrutiny of the cases of the teachers of the affiliated degree colleges appointed prior to 19.04.2007, without the recommendation of the Bihar College Service Commission on the basis of qualifications in force at the time of appointment of such teachers up to 31.03.2017, otherwise, such appointments will not be treated valid. Thereafter, the Governing Body of the college will accept the names recommended by the Selection Committee, which shall be finally approved by the concerned University.

Distribution of the amount of grant of the State Government will be made across the teachers in the concerned affiliated degree colleges by its Governing Body up to 31.03.2017.”

6. The time limit was further extended to



31.03.2018.

7. It was further found out by the learned Single Judge that most of the petitioners had been appointed in private colleges based on the recommendations of the Governing Body of such colleges. All such colleges were affiliated with the respective Universities. However, their appointments did not have the sanction/approval of the Bihar College Service Commission.

8. With the Bihar College Service Commission having been dissolved, a new body, viz., Selection Committee at the College Level was introduced for making recommendations with regard to appointment of teachers of the affiliated degree colleges under the Act of 1976, as amended from time to time.

9. Most of the writ petitioners were being paid their salaries till 2012 on the basis of deficit grant as also grant against performance of the students of the college in the academic year.



10. There were many colleges having teachers and non-teaching staff, which were not being funded by the State. It was only later in the day that the education policy, especially with respect to the grant of finances to the colleges underwent a paradigm shift in the State of Bihar and the Government decided to make available grants to all colleges, especially for the purposes of payment of salaries to the teachers and staff.

11. However, to implement that, it required to be ascertained as to which of the teachers were appointed on the recommendation of the Governing Body and were allowed to continue to teach in such colleges later, but without the approval of the Bihar College Service Commission.

12. Be it noted that the initial appointment of such teachers in private colleges were made with a condition that such appointment would be valid only for six months and any further extension of the service of such teachers would be based on the recommendation of



the Bihar College Service Commission.

13. This provision was completely ignored for a good number of years. It was later found that there were many teachers whose appointments were not confirmed by the Bihar College Service Commission. The Government also took into account that so many private institutions had come up only for the reason that the Government had stopped opening colleges. These colleges were started by the efforts of private persons and at the time when the policy of the State of Bihar was undergoing change, these colleges had infrastructure, teachers and teaching staff. In this context, it was understood by the Government that it would only be easier for the State to carry out the new education policy specially with respect to grant of finances, by using the infrastructure and the faculty of such colleges which were existing. It was for this reason that it was resolved that instead of Bihar College Service Commission, a new body, called Selection Committee at College Level, would be



and was introduced for completing the work of Bihar College Service Commission, viz., providing recommendation with respect to appointment of teachers of the affiliated degree colleges under the Act of 1976.

14. Most of the Selection Committee at College Level carried out the process of scrutinizing the cases of teachers and submitted a report to the Governing Body, which had to be accepted by such Governing Bodies. The Governing Bodies, in turn, had to send requisition to the State for the release of grant. This was the process which was evolved for carrying out the policy of giving grant to the private degree colleges affiliated to the Universities.

15. It was only much later, while the writ petitions were being decided, that a counter affidavit having been sworn by the Director of Education was filed which *inter alia* declared that the amendment in 2015 in Section 57-A of the Act of 1976 was only limited for such institutions/colleges which were getting grant from the



Government against the performance of the students in an academic year. This interpretation was obviously for withholding grant to other degree colleges, which hitherto had been receiving the deficit grant for a long time.

16. The learned Single Judge, on a perusal of the preamble of the Amending Act of 2015, referred to above, found that though the introduction talked about Resolution No. 1846 dated 21.11.2008, which primarily dealt with such institutions which were getting grant against performance of students, but the amendment was brought about only on the assessment of the State that many of the teachers working in private degree colleges for long duration, who were appointed by the Governing Body of such colleges, were not being paid only for the reason that their services were not confirmed by the Bihar College Service Commission.

17. However, since the Commission had been dissolved, the defect could not have been remedied and, therefore, it was decided to have another body called



Selection Committee at College Level, about which reference had been made earlier.

18. The last part of the amendment, *viz.*, the introduction of sub-Clause 6 in Section 57-A of the Act of 1976, clearly demonstrates that such change in the policy of the Government was with respect to teachers of private degree colleges affiliated to Universities across the board. Some were not getting grant from the Government and some others were getting deficit grant or grant against performance.

19. Since by the amendment in sub-Clause 6 of Section 57-A of the Act of 1976, it was declared that the distribution of the amount of grants sanctioned by the State Government will be made amongst the teachers of the concerned affiliated degree colleges by its Governing Body up to 31.03.2017, which was later extended till 31.03.2018, the learned Single Judge categorically held, and in our opinion, rightly so, that for grant of finances, the distinction between colleges getting deficit grant and



colleges getting grant against performance was absolutely unwarranted and uncalled for. This distinction only reflected the blinkered approach of the Department.

20. Thus, the teachers of all the affiliated degree colleges appointed prior to 19.04.2007 were covered by the Amending Act of 2015 and the distinction which was carved out by the State of limiting this benefit only for teachers of such degree colleges which were getting grant against performance of the students in such colleges, is not only illusory but iniquitous.

21. The State, thus, and as held by the learned Single Judge would be under an obligation to release the grant to the concerned Universities for further distribution of salary and other allowances to the writ petitioners. It was also clarified by the impugned judgment that those teachers who had retired shall also be granted their due pensionary benefits in terms of the U.G.C. pay scale. This exercise was to be conducted positively within a period of one month.



22. We endorse the same but considering the gigantic exercise which would be required to be executed, we are of the view that the time of one month for completing the entire exercise would be too short.

23. We, therefore, modify the judgment to the extent that the entire exercise shall be conducted and concluded within a period of three months from the date of passing of this order.

24. With the afore-noted modification in the judgment impugned in the present set of appeals, both the appeals stand disposed off accordingly.

25. Interlocutory application/s, if any, also stand disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Sauravkrsinha/
Praveen-II-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.05.2025
Transmission Date	NA

