

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.868 of 2012

1. Arvind Kumar S/O Late Raghubar Yadav R/O Quarter No. 43, Lalit Narayan Mithila University Campus, P.O.- Bhuscaul, Police Station- University, District- Darbhanga
2. Rohit Yadav S/O Late Tilak Yadav R/O Sunderpur Navtolia, P.O.- Basudevpur (Lalbagh), Police Station- University, Darbhanga
3. Om Prakash Sah S/O Late Laxmi Sah R/O Hasan Chak, P.O.-Lalbagh, Police Station- University, Darbhanga
4. Prabhat Kiran S/O Jagdish Prasad Yadav R/O Behind Europien Guest House, R/O Lalbagh, Police Station- University, District- Darbhanga
5. Shambhu Paswan S/O Late Jogi Paswan R/O Chapki Parli, P.O.-Laxmi Sagar Sabu Gachi, Police Station- Sadar, District- Darbhanga
6. Sukeshwar Prasad S/O Late Asheshwar Prasad R/O Villagte- Chapra, P.O.- Milki Chak, Police Station- Bahadurpur, District- Darbhanga
7. Shyam Kishore Yadav S/O Late Shiv Nandan Yadav R/O Gausha, P.O.- Gausha Ghat, Police Station- Sadar, District- Darbhanga

..... Petitioner/s

Versus

1. Lalit Narayan Mithila University Through Its Registrar Kameshwar Nagar, Darbhanga
2. The Vice Chancellor, Lalit Narayan Mithila University, Kameshwar Nagar, Darbhanga
3. The Registrar, Lalit Narayan Mithila University Kameshwar Nagar, Darbhanga

..... Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Adv.
Mr. Binod Kumar, Adv.

For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

4 07-05-2014 Heard learned counsel for the petitioner, for the University and the State.

In this petition, it has been claimed that the petitioners have wrongly been transferred to the constituent Colleges, as they were regularized as employee of the University.

It has been submitted that in terms of transfer policy,

those who are posted in the University and its allied Offices cannot be transferred to other places.

Earlier judgment as well as the decision by the Hon'ble Chancellor of the Universities that as per the provisions of Statute of the University, the University and its allied offices, are one unit whereas constituent colleges are completely separate Units. Therefore, an employee cannot be transferred. Even after direction of this Court as well as the decision taken by the Hon'ble Chancellor, unfortunately, the University authority refused to adhere to follow earlier decision and the decision of the Hon'ble Chancellor. If the authority acts beyond jurisdiction and transfer a person to a place where he cannot be transferred, the transfer order cannot be upheld. This issue came for consideration in CWJC No. 1380 of 2011 (Ram Pujan Thakur and others v. LNM University, Darbhanga and others) and this Court vide order dated 21st May 2011 allowed the writ petition.

In the same terms this petition is also allowed and the order of transfer passed against the petitioners is hereby quashed.

Jay/-

sd/-

(Shivaji Pandey, J)

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For Joint Registrar (J)

Patna High Court

Authorised by Act 1 of 1972

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IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1081 of 2011

In

Civil Writ Jurisdiction Case No. 1380 of 2011

With

Interlocutory Application no. 5012 of 2011

In

Letters Patent Appeal No. 1081 of 2011

-
1. L.N.Mithila University Darbhanga, through its Registrar, Kameshwar Nagar, Darbhanga.
 2. The Vice-Chancellor, L.N.Mithila University, Kameshwar Nagar, Darbhanga.
 3. The Registrar, L.N.Mithila University, Kameshwar Nagar, Darbhanga.

.... Respondents/ Appellants

Versus

1. Ram Pujan Thakur, Medu Thakaur, R/O Village & Po-Koil, Bhupat, PS-Mahandia, District-Arwal (Jahanabad).
2. Shabbir Ahmad, Late Md.Ayub, R/O Vill. & PO Koila Asthan, Ps-Kewali, District-Darbhanga
3. Ruti Kant Lal Das, Late Badri Narayan Laldas, R/O Mohalla-Sunderpur Bira, PO-Lalbagh, PS.-University, District-Darbhanga.

.... Petitioners/Respondents

Appearance :

For the Appellant/s : Mr.Chittaranjan Sinha, Sr. Advocate
Mrs. Nivedita Nirvikar, Advocate.
For the Respondent/s : Mr. Pushkar Narayan Sahl
Mr. Anil Singh, Advocates.

CORAM HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

10 17-10-2011

Feeling aggrieved by the judgment and order dated 2nd May 2011 passed by the learned single Judge in above CWJC No. 1380 of 2011, the respondent L.N. Mithila University, Darbhanga (hereinafter referred to as 'the University') has preferred the present Appeal under Clause 10 of the Letters Patent.

The subject matter of dispute is the transfer of the writ petitioners, the employees of the University to the constituent

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AUTH. NO. 3184 DT. 16/12/2008

BIHAR COURT

colleges.

The learned single Judge has allowed the writ petition. The learned single Judge has held that the University and the constituent colleges have separate and individual existence, inter-se transfer is not permissible. Therefore, the present Appeal.

Learned counsel Mr. Chittaranjan Sinha has appeared for the University. He has relied upon the Government instructions dated 28th April 2010 (Annexure-8 to the supplementary affidavit). He has submitted that it is the mandate of the State Government that the salary grant for the persons working on the sanctioned posts alone will be paid to the University. Mr. Sinha has, however, not been able to establish that the writ petitioners were not working on the sanctioned posts.

In absence of any factual material on record, no interference is warranted.

Appeal is dismissed *in limine*.

Interlocutory application stands disposed of.

sdl
(R.M. Doshi, CJ)

sdl/-
(Birendra Prasad Verma, J)

Sujit /-

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Chhita K...
For Joint Registrar (J) 14/11/11
Patna High Court
Authorised U/S 76 of Act of 1879

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Requisition Number : LPA/5155/2011

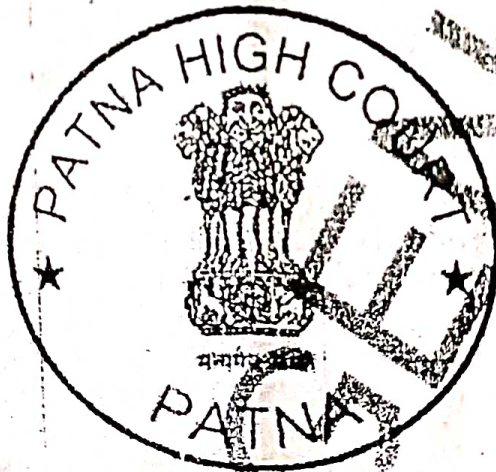
Date of Requisition	Stamp Notification Date	Stamp Deposit Date	Date of Copy Ready	Date of Copy Delivered
11-11-2011	14-11-2011	14-11-2011	14-11-2011	15/11/2011

Memo Of Case	
Application Fee for Copy	Rs.0.33
Searching Fee	Rs.1.00
Extra Fee for Urgency	Rs.1.00
Folios Fee	Rs.1.65
Other Items If Any	Rs.0.00
Total	Rs.3.98
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IN THE HIGH COURT OF JUDICATURE AT PATNA
 CWJC No.5305 of 2009
 TRIBHUVAN KANT THAKUR
 Versus
 THE V.C., L.N.MITHILA UNIVERSIT

2/ 21.01.2010

Petitioner has prayed for quashing of the Notification contained in Memo No. 17392-491/08 dated 30.12.2008 issued under signature of Registrar, Lalit Narayan Mithila University, Darbhanga, whereby he has been transferred from the office of the university to other constituent college of the university. The impugned transfer order has been challenged on the ground that the Vice-Chancellor of the university has no power to transfer any non-teaching staff of the university in absence of common seniority list of all the constituent colleges.

Counsel appearing for L.N. Mithila University, is directed to seek instruction and file counter affidavit, for which four weeks time is allowed.

Put up this case for admission after four weeks.

In the meantime, operation of the impugned order dated 30.12.2008 (Annexure-1) shall remain stayed.

Sanjeev

Sd/- (Mridula Mishra, J.)

Ramesh Kumar

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