

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1240 of 2023
In
Civil Writ Jurisdiction Case No.1660 of 2023

1. Veer Kunwar Singh University Bhojpur at Ara.
2. Vice- Chancellor, Veer Kunwar Singh University, Bhojpur at Ara.
3. Veer Kunwar Singh University, Ara through its Registrar.

... .. Appellant/s

Versus

1. Dr. Neeraj Kumar @ Neeraj Kumar Son of Late Ravi Nandan Prasad Sinha,
Resident of Jehanabad House, Aadarsh House, Road No. - 3, Professor
Colony, Near Lal Babu Market, North Shashtri Nagar, P.S. - Shastri Nagar,
L.B.S. Nagar, Patna.
2. The State of Bihar through Principal Secretary, Higher Education Dept.
Govt. of Bihar, Patna.
3. The Hon'ble Chancellor, Governor's Secretary, Raj Bhawan, Bihar, Patna.
4. Dr. Vinay Kumar Mishra, Associate Professor and CCDC, PG, Physics
Department, Veer Kunwar Singh University, Bhojpur at Ara.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rajesh Prasad Choudhary, Advocate
For the Respondent/s : Mr.Sarvesh Kr. Singh (AAG13)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-07-2024

The controversy agitated in the appeal is limited insofar as whether an action taken by the Vice Chancellor under Section 14-B of the Bihar State Universities Act, 1976 (hereinafter



referred to as the 'Act' in short) has to have the approval of the Chancellor of the University.

2. Learned Senior Counsel Mr. P.K. Shahi appearing for the appellant-University pointed out that the writ petition was against the removal of the petitioner from the post of Coordinator College Development Council (CCDC). The learned Single Judge found that there was clear violation of principles of natural justice for the petitioner having not been afforded an opportunity of hearing and the order was set aside directing reinstatement with all consequential benefits, but leaving liberty to proceed afresh. There was fresh proceeding taken and an order was passed in compliance with the principles of natural justice and before such proceedings were taken up afresh, the writ petitioner was also reinstated.

3. What is agitated in the appeal is only the further direction in paragraph no. 34 where the learned Single Judge had directed further action to be taken with the approval of the Chancellor of the University. Section 14-B of the Act was specifically read over to contend that there was no such requirement. Learned Senior Counsel for the University has also relied on a decision of the Supreme Court in the case of **Commissioner of Police, Bombay Vs. Gordhandas Bhanji;**



AIR 1952 SC 16 and Purtabpur Company Ltd., Vs. Cane Commissioner of Bihar and Ors; AIR 1970 SC 1896, to contend that an approval not provided for in the statute cannot be insisted upon by judicial order.

4. Section 14-B reads as under:-

“14-B. Co-ordinator, College Development Council.- (i) *The Vice-Chancellor may appoint Co-ordinator, College Development Council from among such teachers of the university, who are not below the level of vice-principal.*

(ii) *His/Her tenure shall be for three years and after expiry of the tenure, he/she shall be eligible for re-appointment for a period of not more than two years. But if the Vice-Chancellor finds it appropriate at any time for some administrative reasons, then the Vice-Chancellor can send back the Co-ordinator to his basic post or if the co-ordinator has attained the age of retirement, the Vice-Chancellor may terminate his services and some other person shall be appointed for the unexpired period.*

(iii) *The service conditions, his/her responsibilities and salary of the Co-ordinator shall be determined by the statutes.”*

5. An order of termination has been passed which could be challenged. But now a contempt petition has been filed alleging non-compliance of the judgment.

6. Mr. Purushottam Kumar Jha, who appeared for the respondent pointed out that there was clear victimization and it was hence the learned Single Judge directed approval from the Chancellor.



7. The appointment of CCDC is the prerogative of the Vice-Chancellor as per Section 14-B of the Act. The removal of the CCDC also is the prerogative of the Vice-Chancellor and the statute does not call for any approval either for appointment or for removal. We cannot but notice that the interference caused on earlier occasion was only on the grounds of violation of principles of natural justice and liberty was reserved for proceeding afresh and the reinstatement directed was complied with before such liberty was availed by the University. The order passed in the *de novo proceedings* is not the subject matter of the appeal and has not been called in question. The respondent herein would have remedy to challenge the order if he so desires, however, insofar as the approval by the Chancellor as directed by the learned Single Judge, we do not find it to be a requirement under the statute.

8. **Commissioner of Police, Bombay** (*supra*) was a case in which, the Commissioner granted permission to build Cinema Halls in a part of Greater Bombay exercising the statutory discretion vested in the Commissioner to grant such license. Later, the permission was suspended by the Commissioner and the applicant was asked to await the orders of the Government. It was categorically held that the person



vested with the authority to grant or refuse a license for the erection of a building, to be used for the purpose of public amusement, was the Commissioner of Police. Though the rules vested the Commissioner with the absolute discretion at any time to cancel or suspend any license, it cannot be done under the dictates of the State Government. **Purtabpur Company Ltd.,** (*supra*) also found the Chief Minister to be not competent to interfere with an order passed by the statutory authority.

9. In the present case, as we found, the Vice-Chancellor has the absolute authority as per the statute, especially Section 14-B of the Act to appoint CCDC and remove him. Reference was also made to Sections 9 and 10 of the Act, being the powers of the Chancellor and the Vice-Chancellor under the Act of 1976. Section 9 and 10 confers specific powers and sub-section (8) of Section 9 and sub-section (15) of Section 10 provides respectively that the Chancellor and the Vice-Chancellor shall exercise such powers as conferred *inter-alia* under the Act. Section 10 or 14-B does not speak of any approval being required of the orders of the Vice-Chancellor passed either invoking Section 10 or Section 14-B.

10. We hence set aside the judgment to the extent only of the direction that any orders passed afresh by the Vice-



Chancellor requiring approval of the Chancellor of the University. We make it clear that we have not spoken on the merits of the case and the respondent would be at liberty to challenge the same in an appropriate proceeding.

11. The appeal stands partly allowed leaving the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

ranjan/-

| | |
|-------------------|------------|
| AFR/NAFR | NAFR |
| CAV DATE | NA |
| Uploading Date | 05.07.2024 |
| Transmission Date | NA |

