

(2023) 05 PAT CK 0033

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 14376, 14380, 14387, 14532, 14566, 14570, 14579, 14585, 14612, 14650, 14698, 14852, 14942, 15048, 16455 Of 2022, 1484 Of 2023

Bighnesh Jha

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 08-05-2023

Acts Referred:

Citation : (2023) 05 PAT CK 0033

Hon'ble Judges : Purnendu Singh, J

Bench : Single Bench

Advocate : Kripa Nand Jha, Kameshwar Kumar, Kripa Rash Jha, Subhash Kumar Mishra, Pramod Kumar Singh,, Madhaw Pd. Yadaw, Jitendra Kumar Roy

Final Decision : Disposed Of

Judgement

1. Learned counsel appearing on behalf of the petitioners informs this Court that the petitioners have already represented before the Registrar of the University and the only delay in making payment is being caused by the Registrar of the University.

2. Learned counsel further informs this Court that in the case of Dr. Jitendra Narayan Singh Vs. The Hon'ble Chancellor of Universities of Bihar (bearing CWJC No.9726 of 2017), the Hon'ble Division Bench of this Court has passed inter alia following orders/directions : -

"We find force in the submissions of learned counsel for the petitioners. On the face of it the resolution dated 18.10.1976 (Annexure-1 to the writ application) does not prescribe minimum number of students in each year of Shastri course as 60 which is now the contention of the State. Fallacy in the argument of the State writ large when we find that the minimum number of students prescribed in the resolution is 60 as a whole and not part-wise. This fact has been taken note of by the learned writ Court in its judgment as contained in Annexure-2 to

the writ application. In the said case the Hon'ble Writ Court specifically considered and held that the resolution no.2261 dated 18.10.1976 minimum number of students at Shastri level i.e. graduate level was mentioned as 60. The Court proceeded to consider whether relevant part of the said resolution no.2261 dated 18.10.1976 stand repealed and what will be the consequence of such repeal, but after going through the arguments advanced on behalf of the parties the learned Writ Court held in paragraph 11 of the judgment as under:-

"From conjoint reading of the abovementioned condition relating to the minimum number of students in different categories of schools/college I have no manner of doubt that the number refers to the students on rolls of the schools/college, as the case may be, in the particular class, and not the number of students actually appearing at the examination. There is no ambiguity in the aforesaid resolution of the government that the basis of student strength is the number of students on rolls of the schools/college, I fail to understand as to how any stand which is not in conformity with the resolution, can be taken or made basis of the impugned decision."

3. Learned counsel appearing on behalf of the University informs this Court that immediate steps will be taken by the Registrar of the University to disburse all the dues as claimed by the petitioners within a period of six weeks.

4. Considering the extra submissions made by the parties, in view of the admitted fact that the petitioners have filed detailed representation before the Registrar of the University along with order dated 23.07.2018 passed in CWJC no.9726 of 2017 (supra), the Vice Chancellor must ensure that the Registrar of the University takes steps for making payment of the retiral dues, pension and applicable interest on account of delayed payment to the petitioner within a period of six weeks.

5. At this stage, the learned counsel appearing on behalf of the University informs this Court that the University is stressed due to non-availability of fund and if it is true, the Vice Chancellor and the Registrar of the University should personally approach the Additional Chief Secretary, Higher Education Department, Government of Bihar, who will at least ensure disbursal of fund, which is required by the University for the payment to be made to the petitioner.

6. There shall be no order as to costs.

7. With the above observation/direction, the present writ petitions are disposed of.