
(2023) 11 PAT CK 0058

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2564 Of 2023

Dinesh Prasad Sinha

APPELLANT

Vs

Magadh University Bodh Gaya

RESPONDENT

Date of Decision : 30-11-2023

Acts Referred:

Bihar State Universities Act, 1976 — Section 9(4)

Citation : (2023) 11 PAT CK 0058

Hon'ble Judges : Anil Kumar Sinha, J

Bench : Single Bench

Advocate : Ritesh Kumar, Siddhartha Prasad, Sunil Kumar

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the parties concerned.

2. The brief facts of the case are that the petitioner was working as Principal, Gaya College, Gaya. There are charges of financial misconduct and embezzlement against the petitioner, for which, a preliminary enquiry was conducted by the Magadh University, Bodh Gaya and certain observations were recorded against the petitioner. The Enquiry Committee arrived at the finding that in-depth and detailed enquiry into the serious charges of financial irregularities and administrative lapses is required which is only possible when the petitioner is sent away from this College and proper and adequate security forces be deployed to ward off any untoward incident impeding the enquiry against him. The preliminary inquiry report was submitted on 25.07.2022 but in the intervening period, the petitioner was transferred on 09.06.2022 from Gaya College, Gaya to T.S. College, Hisua, Nawada. Being aggrieved against his transfer order, the petitioner moved a writ application before this Court bearing C.W.J.C. no. 9596 of 2022 and vide order dated 14.07.2022, the order of transfer of the petitioner was stayed by this Court and thereafter, the aforesaid writ petition was withdrawn on 13.12.2022. In the meanwhile, the petitioner was suspended by the University vide order dated 20.08.2022. The petitioner has

filed the present writ application challenging the aforesaid order of suspension dated 20.08.2022.

3. Learned counsel for the petitioner submits that vide letter dated 11.08.2022, the petitioner was directed to submit his reply as to why administrative action be not taken against him for the act of gross misconduct, indiscipline and insubordination but the show cause issued by the Vice-Chancellor of the University was not served upon the petitioner and accordingly, notification dated 20.08.2022 was issued by the Registrar, Magadh University, Gaya, by which the petitioner was put under suspension on the charges of grave financial irregularities in contemplation of departmental proceedings. On 29.08.2022, memorandum/ article of charges were served upon him, which includes the charges of swindling the University funds to the tune of Rs. 43 lacs approximately along with other charges. He further submits that the petitioner, after receipt of memo of charge, submitted his show cause reply by letter dated 01.09.2022. Admittedly, the Enquiry Officer as well as Presenting Officer were appointed for conducting the departmental proceeding against the petitioner. He next submits that the petitioner has been kept suspended since 20.08.2022 i.e. beyond the period of one year in violation of the statutory provisions as contained in Statute no. 1 (10)(2)(3) of The Statutes. He also submits that the University could not keep the Principal/ Teacher suspended for more than one year. He also submits that pending departmental proceedings, the University has constituted a fresh Enquiry Committee dated 12.04.2023, as such, submission is that two parallel enquiry cannot be allowed to be continued against the petitioner, A departmental proceeding is already pending against him.

4. Per contra, learned counsel for the University, on the other hand, submits that there is a rider in Statute no. 1 (10) (2)(3), inasmuch as the period under which, one can be kept suspended may exceed one year period if the circumstances are beyond the control of the University. He further submits that one of the charges against the petitioner is that the petitioner deliberately did not allow the enquiry committee to conduct an enquiry. The students gathered and raised slogans in front of the Principal's chamber and situation was made so tense and noisy that continuance of enquiry was impeded and further in order to pressurise the enquiry committee, some students sprinkled petrol/ inflammable liquid on their bodies and threatened to immolate themselves. He next submits that there is an alternative remedy available to the petitioner under Section 9(4) of Bihar State Universities Act, 1976 and the petitioner may be relegated to remedy of appeal before the Hon'ble Chancellor against the impugned order.

5. I have heard learned counsel for the parties. It is an admitted position that regular departmental proceeding has been initiated against the petitioner on the memo/ article of charges served upon him. It is also admitted that Enquiry officer and Presenting Officer have been appointed for conducting the enquiry. This Court has been informed that during pendency of the present writ application, the Presenting Officer has already been superannuated. Taking into

consideration the nature of dispute and the fact that the regular departmental inquiry has already been initiated against the petitioner, as such, a parallel enquiry by another Enquiry Committee constituted by the University is something which would be a futile exercise.

6. It is expedient in the interest of justice that the University be directed to conclude the enquiry, one way or the other, within a period of four months from today, in accordance with law. It goes without saying that University shall be at liberty to appoint new Presenting Officer in view of the retirement of the earlier Presenting Officer.

7. Accordingly, the present writ application is disposed with a direction to the University to conclude the departmental proceeding initiated against the petitioner, within a period of four months from today, in accordance with law. It is expected that the petitioner will cooperate with the Enquiry Officer and will not put obstruction in the speedy conclusion of the departmental proceeding. It is made clear that if the enquiry proceeding is not concluded against the petitioner within the aforesaid period of four months, suspension of the petitioner shall stand revoked automatically.

8. At this stage, learned counsel for the petitioner submits that since May, 2022, not a single penny or subsistence allowance has been paid to the petitioner. In that view of the matter, the University is directed to ensure payment of subsistence allowance to the petitioner, within a period of 15 days from today.