
(2022) 09 PAT CK 0022

In the Patna High Court

Case No : Letters Patent Appeal No. 484 Of 2022 In Civil Writ Jurisdiction Case
No. 9596 Of 2022

Magadh University

APPELLANT

Vs

Dinesh Prasad Sinha

RESPONDENT

Date of Decision : 14-09-2022

Acts Referred:

Bihar State University Act, 1976 — Section 10(14), 26(6)(iv), 74

Citation : (2022) 09 PAT CK 0022

Hon'ble Judges : P. B. Bajanthri, J; Rajiv Roy, J

Bench : Division Bench

Advocate : Alok Kumar Rahi

Final Decision : Dismissed

Judgement

1. Heard learned counsels for the parties.
2. The present LPA is against the orders dated 14.07.2022 and 24.08.2022 passed in C.W.J.C No. 9596 of 2022 as an interim measure.
3. Dinesh Prasad Sinha- Respondent No. 1 is stated to have been transferred from the post of Principal from one college to another college before completing five years of service. The learned single judge has taken note of section 26(6)(iv) of the Bihar State University Act, 1976 which stipulates that "The principal shall hold office for a period of five years in one college".
4. On the other hand, learned counsel for the appellant-University submitted that Vice Chancellor is empowered to transfer in the light of sub-section 14 of section 10 of Bihar State University Act, 1976.
5. Perusal of the aforesaid provision it is a case of interpretation of relevant section as to which will prevail over a particular section, if there is any difficulty in implementation of any section of the Bihar State University Act, 1976. Section 74 provides for chancellor to overcome any particular situation.

Section 74 of the Bihar State University Act, 1976 reads as under.

"Removal of difficulties by the Chancellor at the commencement of this Act. If any difficulty arises in respect of establishment of the University, or in the first implementation of the provisions of this Act or Statutes, or otherwise, the Chancellor may at any time, before the constitution of all the authorities of the University, by order, consistent with the provisions of this Act and Statutes, as far as possible, make any appointment or perform any other function, which seems necessary or proper to him for the removal of the said difficulty; and all such orders shall take effect in the same manner as if the said appointment or function has been done in the manner provided in this Act:

Provided that before issuing such an order, the Chancellor shall elicit the opinion of the Vice-Chancellor and of such appropriate authority of the University, as may have been constituted, on the proposed order and give considerations thereon."

6. Learned Counsel for the University submitted that during pendency of C.W.J.C. No. 9596 of 2022, respondent Dinesh Prasad Sinha is stated to have been placed under suspension on certain allegations on 20.08.2022. If he has been placed under suspension, the competent authority is required to examine as to withdraw the transfer order dated 09.06.2022 and proceed further in accordance with law in light of the suspension order dated 20.08.2022. Moreover, the present LPA is against interim orders of Learned Single Judge. Therefore, question of interfering with the orders dated 14.07.2022 and 24.08.2022 is not warranted. The learned single judge is requested to decide the main matter within a reasonable period of time.

7. With the above observations, the present LPA stands disposed of.