

**(2014) 06 PAT CK 0030**  
**In the Patna High Court**  
**Case No : CWJC No. 9461 of 1999**

Nagendra Kumar Mishra

APPELLANT

Vs

Kameshwar Singh Darbhanga Sanskrit University

RESPONDENT

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**Date of Decision :** 27-06-2014

**Acts Referred:**

**Citation :** (2014) 3 PLJR 758

**Hon'ble Judges :** Chakradhari Sharan Singh, J

**Bench :** Single Bench

**Advocate :** Durga Nand Jha, Advocate for the Appellant; Awadhesh Pd. Sinha, Advocate for the Respondent

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## Judgement

Chakradhari Sharan Singh, J.—The petitioner claiming to be a Teacher Representative of the governing body of Nityanand Sanskrit Mahavidyalaya, Amarut, Gaya has preferred the present writ application seeking quashing of an office order dated 30.8.1999 issued under the signature of the Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga whereby the payment of salary to the teaching and non-teaching staff of 17 affiliated Sanskrit Colleges including the College of the petitioner was decided to be stopped on the ground that their affiliation had not been approved by the State Government. The case has been taken up for adjudication nearly 15 years after institution of the case. By an order dated 17.9.2004, the matter was directed to be listed after disposal of L.P.A. Nos. 318/2001 and 321/2001. The said Letters Patent Appeals are said to have been disposed of on 22.6.2006 and it has been stated by learned counsel for the petitioner that the appeals have been dismissed by a Division Bench of this Court.

2. A counter affidavit has been filed on behalf of the Respondent-State of Bihar stating in paragraph No. 5 that legally appointed teachers of the College are being paid their salary since January, 2001. The petitioner does not have any grievance as regards payment of salary.

3. However, learned counsel for the petitioner has submitted, referring to a judgment of this Court reported in *Saraswati Vilas Sanskrit Mahavidyalaya and Others and Kirti Narayan Kamakhya Sanskrit Mahavidyalaya and Others Vs. Kameshwar Singh Darbhanga Sanskrit University and Others*, that in similar circumstance, the said decision of the Government of India dated 14.7.1999 as referred to in the office order dated 30.8.1999 passed by the University, impugned in the present writ application was challenged by two different colleges, namely, *Saraswati Vilas Sanskrit Mahavidyalaya, Shokhara, Barauni and Ors. and Kirti Narayan Kamakhya Sanskrit Mahavidyalaya, Maharail and Ors.* Mr. Durga Nand Jha, learned counsel appearing on behalf of the petitioner submits that by letter dated 24.6.2000, issued by the State Government of Bihar, affiliation granted to all the 17 colleges were directed to be withdrawn. This Court in case of *S.V.S. Mahavidyalaya v. K.S.D.S. University (supra)* quashed the said letter dated 24.6.2000. Paragraph No. 20 of the said judgment reads as follows:--

"So far as un-reported judgment in the case of *Ramjee Prasad Sharma (supra)* is concerned, the same is factually distinguishable. In the said in reported judgment the learned Judges of the Division Bench basically decided that the State Government is not the competent authority to direct absorption but appointment has to be made by the Zila Parishad. In that case before the Division Bench since the absorption was directed by the State Government, the learned Judges of the Division Bench, if I may say so, rightly interfered with the said direction but the present case is factually totally different. Apart from that in the aforesaid case, the absorption was directed of a Junior Engineer working on daily wage basis on the higher post of Assistant Engineer. The same is also not the position here. That apart, from the aforesaid decision it appears that in that case the case of the writ petitioner was not at all considered at the time of directing such absorption and only the case of respondent No. 7 was considered."

4. Against this order, the said Letters Patent Appeals No. 318/2001 and 321/2001 were preferred which were dismissed by an order Mated 22.6.2006.

5. In the background of these facts, the limited submission which have been led by Mr. Jha is that pursuant to order of this Court in case of *S.V.S. Mahavidyalaya v. K.S.D.S. University*, State Government and the University have considered the question of affiliation with respect to all other colleges except the petitioner's college i.e. Amaruth, Gaya.

6. Without going into the merit of submission made on behalf of the petitioner, I dispose of the writ, application with a direction to the Respondent-State of Bihar to consider, if not already considered the case of the petitioner's college in terms of paragraph No. 20 of the judgment of this Court in case of *S.V.S. Mahavidyalaya v. K.S.D.S. University (supra)*, if the said judgment is found applicable in case of petitioner's college also. This application is disposed of accordingly.

The Court expects that such decision should be taken within a period of six

months from the date of receipt/production of a copy of this order.