
(2004) 09 PAT CK 0134
In the Patna High Court
Case No : M.J.C. No. 1553 of 2004

Prof. Kedar Nath Prasad Sinha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-09-2004

Acts Referred:

Bihar State Universities Act, 1976 — Section 37

Citation : (2004) 4 PLJR 522

Hon'ble Judges : S.K. Katriar, J

Bench : Single Bench

Judgement

S.K. Katriar, J.—Mr. Mahesh Narayan Parbat appears for the petitioner. Prof. Anshuman Yadav, Vice Chancellor, and Mr. A.A. Khan, Registrar for Baba Saheb Bhim Rao Ambedkar Bihar University are present. Mr. Jayanandan Singh, learned counsel appears for the University and its functionaries. Dr. Jitendra Singh, Vice Chancellor and Dr. Golam Mustafa, Registrar of Jai Prakash University are present. Mr. Shivendra Kishore, learned counsel appears for the J.P. University and its functionaries. Mr. Alamdar Hussain, learned Standing Counsel, assisting the learned Advocate General, shall ensure service of copies of his show-cause to learned counsel for all the Universities forthwith.

2. This court is beholden to the learned Advocate General for his illuminating submissions which have clarified the issues and put proceedings in the right direction. The issues to begin with are indicated in my order dated 13.8.2004. The order speaks for itself and shall, in conjunction with the submissions of the learned Advocate General, will guide the proceedings hereinafter. The Court's anxiety is, in substance, threefold. The system must exist and must function according to the laws and the procedure established by law. Secondly, the same should be carried out meticulously without involving any alleged dispute because the same are basically administrative in nature. Thirdly, the present lackadaisical approach of the authorities is giving rise to most unwanted litigations in this Court, involving administrative inadequacy, and must stop. This Court has no

intention to take care of the details of administration which are assigned to specific authorities under the relevant Acts. The respondent authorities must realise that the duty cast on the Courts in India is to adjudicate disputes between man and man, man and the State, and State and State. The administrative inefficiency at both the University and the Government level are giving rise to most unwanted writ petitions which do not involve any dispute.

3. A large number of writ petitions have been coming up before this Court at the instance of the employees of all levels of the different universities in the State of Bihar some of which are listed before me today. At the moment we are concerned with the writ petitions relating to money benefits admissible to the retired employees. The University submits that the State Government is bound in law to meet the deficit of the Universities, and always releases the funds belatedly and inadequately. On the other hand, the State Government makes a complaint that the Universities do not submit their budgets in time and are never in accordance with law. Their budgets are always ad hoc, tentative, and are fire-fighting measures. Learned Advocate General has taken me through the Bihar State Universities Act 1976 (the provisions of the Patna Universities Act which are in Para Materia), the substance of which is that the primary responsibility of preparation of the budget is on the Principal of the College to be approved by the Syndicate of the University. All its permissible expenses are spelt out clearly in the detailed provisions of the two Acts. The same have to be meticulously followed. The substance of the matter, therefore, is that University and its functionaries must prepare the budget in the first instance which have to be approved by the Bihar Government. In so far as the second aspect of the matter is concerned, the learned Advocate General submits with his usual fairness that the substance of the relevant provisions are that the entire deficit of the University has to be paid by the State Government. Therefore, it follows as a matter of corollary that once the budget is prepared in accordance with law, the State Government will have to release the fund with promptitude.

4. Taking note of the alarming situation, the State Government has already taken the initiative and held a meeting of the Vice Chancellors of the Universities under the chairmanship of the Minister of State for Education, a copy of the minutes is marked Annexure-A to the show-cause on behalf of the Secretary, Higher Education, Government of Bihar.

5. I would like to highlight a few more issues that I have come across during the course of submissions of the learned counsel representing different parties in this case. One of them is inadequate tuition fee being realised by the Universities from the students. I am informed at the Bar that the tuition fee in the universities of Bihar was last fixed in 1952. Section 37 of the Bihar State Universities Act, 1976 may be referred hereunder which reads as follows:-

37. Ordinances. -The Syndicate may, subject to the provision of this Act and Statutes, make Ordinance to provided for all or any of the following matters namely:-

- (a) the admission of students of the University and their enrolment as such;
- (b) the conditions of residence of the students of the Colleges and the University, the levying of fees for residence in hostels maintained by the Colleges or recognised by the University and the recognition of hostels not maintained by the University, including the suspension or withdrawal of such recognition;
- (c) the fees to be charged for course of study in the University and for admission to the examinations, degrees and diplomas of the University;
- (d) the constitution, powers and duties of the Committee of the University;
- (e) the inspection of colleges by any agency; and
- (f) all other matters which by this Act or the Statutes are to be or may be provided for by the Ordinance.

Particular reference is being made to clause (c) of Section 47 (sic-37?) of the Act. It has become imperative that the tuition fee being charged from the students must be enhanced. In that view of the matter, this Court requests the Chancellor of the Universities of Bihar to take steps for enhancement of tuition fee to be realised from the students of the universities under him promptly. This court would be pleased to be informed through the learned Advocate General of the steps taken in this behalf on the next occasion.

6. Learned counsel for the various universities have also raised certain grievances regarding non-sanction of posts, nonpayment of upgraded pay scales recommended by the University Grants Commission, non-allocation of staff consequent upon the division of the universities, etc. These are essentially administrative matters and the Vice Chancellors of the universities with the help and guidance of the Department of Higher Education agree to take steps and remedial measures in the meanwhile. These aspects must be sorted out promptly because these may have to be incorporated in the Budget.

7. As jointly prayed for, put up on 24.1.2005 on which date the Finance Commissioner, the Commissioner-cum-Secretary, Department of High Education, Vice Chancellors and the Registrars of the Universities shall be personally present. This court expects the learned Advocate General to be present on the next occasion. Let copies of this order be handed over to the learned counsel for the parties.