
(2003) 08 PAT CK 0018
In the Patna High Court
Case No : C.W.J.C. No. 5666 of 2003

Rang Bahadur Singh

APPELLANT

Vs

The Chancellor and Others

RESPONDENT

Date of Decision : 08-08-2003

Acts Referred:

Bihar Agriculture University Act, 1987 — Section 20(5)

Citation : (2004) 4 PLJR 312

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Rajendra Pd. Singh, Arvind Kumar Singh and Mukul Je, for the Appellant; Shivendra Kishore for Respondent No. 1 and Mr. Vivekanand Kumar for Respondent Nos. 3 to 5, for the Respondent

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard counsel for the parties. This writ application is directed against the order, as contained in annexure 1, issued vide letter no. RAU-06/2003-195/ D.S./PSG dated 31.5.2003, whereby and whereunder direction has been issued by the Chancellor's office that the petitioner, who was working as Assistant/Deputy Comptroller, Rajendra Agricultural University, shall cease to function as Comptroller with immediate effect.

2. Learned counsel appearing on behalf of the petitioner submitted that by virtue of the office order, as contained in annexure 3 in memo no. 1395 dated 19.9.2002, issued by the Director (Administration), Rajendra Agricultural University, Pusa, Samastipur, the petitioner got departmental promotion on the post of Deputy Comptroller in the scale of Rs. 2400-75-2850-100-4150 on the recommendation of the screening committee and thereafter vide memo no. 1474 dated 3,10.2002, as contained in annexure 4, he was assigned to work as Comptroller on temporary basis.

3. It is further submitted that the petitioner was assigned to work as Comptroller

as per the direction of the competent authority, who had jurisdiction to do so and the Chancellor's office, all of a sudden issued the impugned annexure directing that the petitioner will cease to function as Comptroller with immediate effect without complying with the proviso to sub-section (5) of Section 20 of the Bihar Agricultural University Act, 1987 (hereinafter to be referred to as "Act").

4. Sub-section (4) of Section 20 of the Act contemplates that the Chancellor may,

(I) call for any paper for information relating to the affairs of a University;

(II) for reasons to be recorded, refer any matter except a matter falling u/s 43 for reconsideration to any officer or authority of the University that has previously considered such matter.

Sub-section (5) of Section 20 of the Act contemplates that the Chancellor, may by an order in writing annul any proceedings of the officer or authority of a University, which is not in conformity with this Act the Statutes or the Regulations:

Provided that before making any such order, he shall call upon the officer or authority concerned to show-cause why such an order should not be annulled and if any cause is shown within the time specified by him in this behalf, he shall consider the same.

5. Mr. Rajendra Prasad Singh, learned counsel appearing on behalf of the petitioner, submitted that the requirement as laid down under proviso to sub-section (5) of Section 20 of the Act has not been complied with, inasmuch as no opportunity, whatsoever, was given to the petitioner to show his cause, and, in that view of the matter, the order impugned must be held to be in violation of the Principles of Natural Justice and also in violation of the proviso to sub-section (5) of Section 20 of the Act.

6. Despite opportunity being given to the learned counsel for the respondent Chancellor, counter affidavit has not been filed. Learned counsel appearing on behalf of the Chancellor, however, in view of the provisions aforementioned, is not in a position to support the impugned order, as contained in annexure 1.

7. Prima facie, from annexure 1, it appears that prior to passing of the order impugned, no opportunity, whatsoever, was given to the petitioner and the order impugned, in that view of the matter, must be held to be wholly without jurisdiction, as it has been passed in violation of the Principles of Natural Justice and proviso to subsection (5) of Section 20 of the Act.

8. For the reasons aforementioned, this application is allowed and the order impugned, as contained in annexure 1, is set aside. No order as to cost.