

(2001) 10 PAT CK 0009
In the Patna High Court
Case No : Civil Appeal No. 6098 of 1997

State of Bihar and Others

APPELLANT

Vs

Bihar Rajya MSESCK Mahasangh and Another

RESPONDENT

Date of Decision : 12-10-2001

Acts Referred:

Bihar State Universities Act, 1976 — Section 4(14), 57A

Citation : (2001) 10 PAT CK 0009

Hon'ble Judges : S. Rajendra Babu, J; Doraiswamy Raju, J

Bench : Division Bench

Advocate : B.B. Singh and Kumar Rajesh Singh, for the Appellant; Kapil Sibbal, Chandra Shekhar, Neeraj Shekhar, Amresh Kumar, Ambhoj Kumar Sinha, S.B. Upadhyay, Krishna Nand Pandey, Ajit Kumar Sinha, Vijay Kumar Sinha, M.P. Jha, Ram Ekbal Roy, Anil K. Chopra, K.N. Rai, Shambhu Prasad Singh, Manjula Gupta, M.D. Pandeya, Prem Sunder Jha and Gopal Prasad, for State of Jharkhand, for the Respondent

Judgement

1. In the circumstances of the case, it would be appropriate to implead the State of Jharkhand as a party to these proceedings. Let notice be issued to the State of Jharkhand through its Chief Secretary. Mr. Gopal Prasad, learned Counsel accepts notice.

2. In the peculiar features of this case, we think it would be appropriate to direct an inquiry to be held by Hon'ble Mr. Justice S.C. Agrawal (retired Judge of this Court) into certain matters mentioned hereunder:

Terms of Reference.

1. How many sanctioned posts of teachers and non-teaching employees were there in the 40 colleges which were converted into constituent colleges pursuant to the sanction letter dated 19.8.1986 of the State of Bihar?

2. How many proposals with regard to creation of posts for teachers and non-teaching employees had been submitted to the Education Department of the

State of Bihar or University before 30.4.1986, the cut-off date mentioned in Appendix "Kha" (pp. 208 of SLP) with respect to 36 colleges converted into constituent colleges as per Government letter dated 19.8.1986? (List of colleges is at Page 206-207 of SLP and other dates mentioned in Government communications in respect of four other colleges.)

3. How many teachers and non-teaching employees seeking absorption in the constituent colleges were not appointed through selections made by the Bihar State University (Constituent College) Service Commission and whether they possess the basic qualifications prescribed by the Act and Statues? This exercise will be without prejudice to the contention of the Respondents that Section 57A is not applicable to such selection, as has been held by the High Court in its judgment?

4. How many teachers and non-teaching employees would be entitled to absorption on the basis of the Government letter dated 19.8.1986 and Appendix "Kha" and the agreement entered into between the University concerned and the constituent college u/s 4(14) of the Bihar State University Act, 1976 and other orders of Government.

3. During pendency of this appeal the concerned teachers and other employees who would be affected by the ultimate outcome of the proceedings before us will get their full salary along with admissible allowances and other benefits subject to any other order made by this Court. It is made clear that the Services of the teaching and non-teaching staff shall not be disturbed during the pendency of the proceedings. The State Governments of Bihar and Jharkhand shall share the expenses of the inquiry to be conducted by Hon"ble Mr. justice S.C. Agrawal and his remuneration may be paid as may be fixed by him. Each State Government shall present all evidence and material pertaining to the inquiry before the learned Judge within three weeks after he fixes the date of inquiry. The inquiry shall be completed as expeditiously as possible preferably not later than six months.

4. List after the report of the inquiry is received.