

27

GOVERNOR'S SECRETARIAT, BIHAR

No. MU-66/96 - 3265 /GS (I)

Raj Bhavan, Patna-22

Dated 27.8.2004

From:- M.P. Shrivastava
Officer on Special Duty (Judl.)

To,

The Vice Chancellor
Magadh University, Bodh-Gaya.

REGD. POST

Sub:- Review petition dated 4/19/2003 of Dr. Baban Singh,
Ex-Principal, B.S. College, Danapur against the order
of Hon'ble Chancellor.

Ref:- Hearing held on 14 th August 2004.

Sir,

I am directed to invite a reference to this Sectt's
letter No.- MU-66/96-2166/GS(I), dated 3.7.2004 on the above
subject and to enclose herewith a copy of the order dated
19th August 2004 passed by the Hon'ble Chancellor after
hearing the concerned parties, for information and follow up
action.

Yours faithfully,

(M.P. Shrivastava)

Officer on Special Duty (Judl.)

Memo No.-MU-66/96 _____/GS (I) Dated:-

Copy alongwith copy of order dated 19th August 2004
passed by the Hon'ble Chancellor forwarded to Dr. Baban Singh,
Lecturer, Deptt. of Pol. Science, A.N. College, Patna for
information.

27/8/04
Officer on Special Duty (Judl.)

Order on the review petition of Dr. Baban Singh, Ex-Principal

19th August, 2004

The petitioner has filed the review petition on 4-9-2003 praying for reviewing the order of the Chancellor dated 28-8-2003 in which the Vice Chancellor of the Magadh University was directed to relieve the petitioner from the post of Principal in terms of para-8 of the order of the High Court of Patna dated 23-4-2003 in C.W.J.C. No. 6626/2000 and has further prayed to allow him to continue as Principal.

2. This matter was argued on 31-7-2004. The learned counsel for the petitioner Sri Vinod Kanth after arguing the matter for considerable time realised that in the order dated ~~28~~-8-2003 of the Chancellor there was only a direction to obey the order of the High Court dated 23-4-2003 in which there was a direction to implement the earlier order of the Chancellor dated 16-9-1997 and relieve the petitioner from the post of Principal and therefore there was no ground to review the said order. He then realised that actual order of the Chancellor which resulted in removal of the petitioner from the post of Principal was the order dated 16-9-1997. On realising this, he prayed for grant of adjournment to file amended review petition. Accordingly he has filed an amended petition seeking relief in terms of the amended prayer.

A copy of the same was directed to be furnished to the University and accordingly the same has been furnished to the University. The University has also filed its reply Counsel on both sides were heard on 14th August, 2004 and the order were reserved. Today I am making this order on the petition.

3. In the first instance in order to appreciate the amended prayer, it is necessary to set out the facts of this case:

4. The petitioner was appointed as a lecturer in the Department of Political Science in R.L.S.Y. College, Aurangabad by the Managing Committee of the College which was a private affiliated college. While working as a lecturer in the said College, on 20-12-1982 he sought permission of the Governing Body of the College to get himself enrolled as an Advocate and practice as an Advocate as he had the law degree qualification. On 4-1-1983 permission was granted by the Governing Body of the College. Thereafter the petitioner got himself enrolled as an Advocate in the Bihar State Bar Council, Patna on 11-1-1983 and subsequently after more than three years ^{from} on 16-8-1986 the petitioner requested the Bihar State Bar Council to postpone his license. This request was accepted by the Council with effect from 16-8-1986. On 1-12-1986 the R.L.S.Y. College was made a constituent college of the Magadh University and the petitioner began to receive the salary from the Magadh University only with effect from 1-12-1986.

5. On 27-7-1992 fourteen posts of Principals of constituent colleges under the Magadh University were advertised by the Bihar State Universities [Constituent Colleges] Service Commission, Patna [hereinafter shortly referred to as the Commission]. The qualifications prescribed for the post were in addition to Masters Degree in 2nd Class, 12 years teaching experience as on the last date fixed for submission of applications. The last date for submission of the application was 24-8-1992.

6. The petitioner submitted his application to the commission in time. Along with the application form, in support of his having 12 years of teaching experience, he produced a certificate issued by the Political Science Department of R.L.S.Y. College and also a certificate issued by the Principal of the College. As the petitioner was an employee of the Magadh University, according to the service rules the same had to be forwarded to the Commission by the Magadh University. Accordingly the Magadh University forwarded his application to the Commission along with the No Objection Certificate. On 16-4-1994 the Commission

interviewed the petitioner and selected him and recommended his name for appointment as a Principal under Magadh University. By order dated 21-4-1994 the Magadh University appointed the petitioner as a Principal and posted him to T.P.S. College. He joined duty on the same date.

7. One Sri. Baidyanath who was also a candidate for selection before the Commission filed writ petition in C.W.J.C. No. 3519/1995 questioning the legality of the selection and appointment of the petitioner on the ground that he was lacking in 12 years teaching experience as on the last date prescribed for submission of the application. He stated in the said petition that the petitioner was practicing as an advocate from 11-1-1983 to 15-8-1986 and therefore during that period he could not have acquired the teaching experience and if that period were to be excluded, he was not qualified to be selected and appointed.

8. The writ petition No. 3519/1995 was disposed off by the High Court on 6-8-1996. The High Court directed the Chancellor to dispose off the petition filed by Sri. Baidyanath before the Chancellor earlier challenging the appointment of the petitioner as Principal and the Court also stated that it was open for the Chancellor to have the dispute enquired into by appointing any person of his choice to do the enquiry.

9. On 3-2-1997 the Chancellor appointed Justice Sri. R.C.P. Sinha, a retired judge of the Patna High Court as the enquiry officer to enquire into the allegation that the petitioner did not have the 12 years teaching experience and therefore his selection and appointment was contrary to law. The enquiry judge collected evidence from all the sources i.e., from the Bar Association Buxar, where the petitioner was stated to be practicing as also from the State Bar Council, the University and the College. On consideration of all these, the enquiry judge held that the petitioner did possess the academic qualification for appointment as a Principal of the constituent college, but he lacked the teaching experience of 12

