

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 26 of 2024

1.Vikas Sharma, resident of Flat No. 21-D, Panchatranta Hill, Bank Colony, Boreya, P.O. & P.S. Kanke, District Ranchi

2.Madanjeet Singh, resident of Flat No. 5, Jagdish Apartment, Nagratoli, P.O. & P.S. Lalpur, District Ranchi

3.Shreya Pradeep, resident of University Colony, 15/4, P.O. & P.S. Bariatu, District Ranchi

4.Dr. Priyanka Mishra, resident of Neelkanth Awas, Lal Kothi Compound, Morabadi, P.O. & P.S. Bariatu, District Ranchi

..... Petitioners

Versus

1.State of Jharkhand, through Secretary, Department of Higher and Technical Education, Government of Jharkhand, P.O. Dhurwa, P.S. Jagarnathpur, District Ranchi

2. Vice Chancellor, Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, P.O. Ranchi University, P.S. Gonda, District Ranchi

3.Registrar, Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, P.O. Ranchi University, P.S. Gonda, District Ranchi

4.Branch Officer (General), Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, P.O. Ranchi University, P.S. Gonda, District Ranchi

5.Branch Officer (Accounts), Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, P.O. Ranchi University, P.S. Gonda, District Ranchi

6.Dr. Ashok Nag, Director, BBA and MBA Department, Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, P.O. Ranchi University, P.S. Gonda, District Ranchi

..... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Petitioners : Mr. Rohitashya Roy, Advocate
For the State : Mr. Sanjay Kumar, Sr.S.C.I

For the Resp. No.6 : Mr. Krishna Kumar, Advocate

ORAL JUDGMENT IN COURT

10/04.09.2024 Heard Mr. Rohitashya Roy, learned counsel for the petitioners, Mr. Sanjay Kumar, learned Sr.S.C.-I, Mr. Arpan Mishra, learned counsel for the Respondent No. 2 to 5 and Mr. Krishna Kumar, learned counsel for Respondent No.6.

2. Though this writ petition has been filed initially on behalf of the petitioners for quashing the Order dated 23.12.2023 (i.e. Annexure-7) by which the petitioners have been terminated and have been debarred from teaching in any other University throughout the State of Jharkhand and for other ancillary reliefs, however, during course of argument Mr. Rohitashya Roy, learned counsel for the petitioners, on instruction from his clients, has confined his argument only on the point of prohibition of the petitioners from engaging in Teaching Work in any other University of the State of Jharkhand.

3. Learned counsel for the petitioners has submitted that the impugned order dated 23.12.2023 passed by the (Vice Chancellor, Dr. Shyama Prasad Mukherjee University (i.e. Respondent No. 2) is illegal, arbitrary and not sustainable in the eye of law as the same has been passed in complete violation of natural justice. It is submitted that neither any show-cause Notice was issued to the petitioners nor any Memo of Charge was served upon them or any Departmental

Proceeding was initiated against them and they were terminated summarily and they were also debarred from teaching in any other University in the State of Jharkhand. It is submitted that the order has been passed in the light of Letter received from the Office of the Chancellor of Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi. It is submitted that as a matter of fact an enquiry was conducted against Respondent No. 6 for his certain improper and illegal acts, however, the Enquiry Committee has submitted its report in favour of the Respondent No. 6. Even the Vice-Chancellor has cast certain aspersions on the conduct of the Respondent No. 6, but the petitioners have been made to suffer and they had been removed from teaching at Dr. Shyama Prasad Mukherjee University and have also been debarred from teaching in any other University of the State of Jharkhand.

In support of his contention, learned counsel for the petitioner has placed reliance upon the judgment in ***U.P. State Road Transport Corporation and Others Versus Brijesh Kumar and Another*** reported in **2024 SCC OnLine 2282** and submitted that even a contractual employee can challenge the termination order if it is found stigmatic.

4. Learned counsel for the petitioners has further submitted that he is not pressing the averments made in Paragraph No.s 6, 7 and 8 of the supplementary affidavit dated 25.04.2024.

5. On the other hand, learned counsel for the State has submitted that the impugned order is fit and proper and requires no interference from this Court as the power to take action against an employee is vested in the Vice-Chancellor of Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi and the State has no role to play in such matters. It is submitted that the Vice-Chancellor has passed necessary order in accordance with law. Thus, this writ petition may be dismissed

6. On the other hand, Mr. Arpan Mishra, learned counsel appearing on behalf of Respondent No. 2 to 5, i.e. the Respondent-Dr. Shyama Prasad Mukherjee University has submitted that the petitioners were contractual employees and as such no Notice was required to be served upon them before disengaging them from the services. It is submitted that the petitioners were not terminated, rather they had been disengaged by the Registrar on the basis of order received from the Office of the Hon'ble Chancellor. It is submitted that a contractual employee can be disengaged at any time and their terms of contract had already completed and as such, there is no illegality in the order passed by the Vice Chancellor & hence, the writ petition may be dismissed.

7. Mr. Krishna Kumar, learned counsel appearing on behalf of the Respondent No. 6 has supported the argument of the Respondent Nos. 1 to 5.

8. Having heard learned counsel for both the sides and from going through the records of this case, it appears that the Petitioners No. 1, 2 and 3, namely Mr. Vikas Sharma, Madanjeet Singh and Shreya Pradeep were appointed vide Notification dated 17.03.2021, issued by the Registrar under the Order of the Vice-Chancellor of Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi as Contractual Teachers in the Department of B.B.A. and M.B.A.(Self Financing and Vocational Courses) for a period of 11 months and they were directed to be paid a remuneration of Rs.40,000/- per month. It has been informed during the argument of the case that Petitioner No. 4, namely Dr. Priyanka Mishra was working as a Guest Faculty in the Department of B.B.A. and M.B.A. (Self Financing and Vocational Courses) since the year 2021. It appears that petitioners were allowed to continue in Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi till the passing of the impugned Order dated 23.12.2023.

9. It appears that on 14.09.2023 an Enquiry Committee was set up on the basis of complaint made by one Expert Media News Network, Ranchi to enquire against Dr. Ashok Kumar Nag, i.e. Respondent No.6, for the financial irregularities committed by him. Thereafter, on 29.9.2023, one another Second Committee was constituted to investigate the charges against Dr. Ashok Kumar Nag

(i.e. Respondent No.6). During course of said enquiry, petitioners were also given Notice to give their evidence in the enquiry conducted against Dr. A.K. Nag along with 20 other faculties.

Thereafter, on 04.10.2023 the petitioners and other faculty members had given their statement/evidence against the Respondent No. 6.

10. Thereafter, the petitioners were served with Notice of defamation dated 06.10.2023 on behalf of Respondent No. 6 through his counsel, which is enclosed as Annexure-2.

The petitioners replied to the said Notice vide their Legal Notice dated 18.10.2023, which is enclosed as Annexure-3 to the writ petition. Later on, petitioners learnt from the News Paper Report dated 26.10.2023 that Dr. Ashok Kr. Nag (i.e. Respondent No.6) has been given clean chit.

11. It appears that thereafter, the petitioners physically represented before the Vice Chancellor and informed him about the irregularities committed by the Enquiry Committee and filed their representation dated 01.11.2023 to the Vice-Chancellor, as contained in Annexure-5. Even the petitioners filed representation on 06.11.2023, (i.e. Annexure-6) before the Principal Secretary to the Hon'ble Governor, State of Jharkhand, Ranchi enquiring about the specific transactions in the account of Dr. A.K. Nag.

12. However, the petitioners were sent the Order dated 23.12.2023 from the Office of the Vice-Chancellor, Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi disengaging them from the service and also debarring them from teaching in any other University in the State of Jharkhand.

13. Learned counsel for the Respondent No. 2 to 5 have filed counter affidavit and has stated that though the first Enquiry Committee was constituted to look into the matter of Dr. A.K. Nag (i.e. Respondent No.6), but later on a second enquiry Committee was also constituted on 29.09.2023. Thereafter, 20 Guest Faculty were called and they were given a 25 point questionnaire prepared by the Enquiry Team based on the allegation framed against Dr. Ashok Kumar Nag and they were asked to fill and submit the same by 03.00 p.m. and all 20 faculty submitted the questionnaire. However, four faculty members, namely Vikash Sharma, Dr.Priyanka Mishra, Madanjeet Singh, Shreya Pradeep, i.e. the petitioners submitted extra sheet and four (04) sealed envelopes to the Enquiry Team despite they were told only to be present before the Enquiry Committee which was objected to by the other teachers and with the permission of the Enquiry Team, six other faculty members, namely Vikrant Kumar Ravi, Ananya Priya Shailee Upadhyay, Ranjay Kamal and Sumit Kumar

and Pallavi Mishra had also submitted six (06) sealed envelopes to the Enquiry Team on the next day.

14. Thereafter, the Enquiry Committee submitted its report on 17.10.2023, which has been enclosed as Annexure-C & D respectively to this Counter Affidavit, by which it has been stated that the allegations against Dr. Ashok Kumar Nag by Expert Media News Network and Santosh Kumar Prasad could not be substantiated.

15. However, in the light of Letter dated 19.12.2023 issued by the Office of the Hon'ble Governor to Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, the petitioners were debarred from teaching. It was also communicated that strong action should be taken against Respondent No. 6 and the petitioners should be debarred from teaching in any University in the State of Jharkhand. Photocopy of the said letter dated 19.12.2023 is annexed as Annexure-E to the counter affidavit filed by the Respondent No. 2 to 5.

16. From perusal of Letter dated 19.12.2023 sent by the Principal Secretary to Hon'ble Governor to the Vice-Chancellor, Dr. Shyama Prasad Mukherjee University, Morabadi, Ranchi, it would appear that certain decisions were taken after the approval of the Hon'ble Governor, which are as follows:

1. The Vice-Chancellor should initiate strong administrative and disciplinary proceeding against Dr. Ashok Kumar Nag (i.e. Respondent No. 6) on his own level.
2. Dr. Vikash Sharma, Dr. Madanjeet Singh, Dr. Priyanka Mishra and Dr. Shreya Pradeep be held guilty and they may be removed from the Teaching work of Dr. Shyama Prasad Mukherjee University, Ranchi and they should also be prohibited from teaching in any other University of the State.

17. Thereafter, the impugned order dated 23.12.2023 has been passed by the Vice Chancellor-Respondent No. 2.

18. Thus, it is evident that all the petitioners have been held guilty without issuing any show-cause Notice to them, without serving them any charge-sheet or without initiating any proceeding against them and they have been directed to be disengaged from the Teaching work of Dr. Shyama Prasad Mukherjee University, Ranchi and have been prohibited from Teaching work in any other Universities in the State of Jharkhand.

19. No doubt, the petitioners are working on contractual basis and their tenure had also expired however, passing any order of punishment without

giving them any Notice is illegal, arbitrary and not sustainable in the eye of law. The petitioners have been punished without issuing any Notice or without initiating any disciplinary Proceeding and thus, the order dated 23.12.2023 passed by the Vice-Chancellor is illegal arbitrary and not sustainable in the eye of law.

20. It has been held in ***U.P. State Road Transport Corporation and Others Versus Brijesh Kumar and Another*** reported in **2024 SCC OnLine 2282 at Para 19, 20 and 21** as follows:-

“Para 19. The services of the respondent have been determined solely on the ground of misconduct as alleged but without holding any regular inquiry or affording any opportunity of hearing to him. The termination order has been passed on the basis of some report which probably was not even supplied to the respondent. No show cause notice appears to have been issued to the respondent. Therefore, the order of termination of his services, even if on contractual basis, has been passed on account of alleged misconduct without following the Principles of Natural Justice. The termination order is apparently stigmatic in nature which could not have been passed without following the Principles of Natural Justice.

Para 20:- *In the light of the above facts and discussion, we are of the opinion that the order dated 30.01.2016 terminating the services of the respondent is bad in law and cannot be sustained. It has rightly been set aside though on a different ground that the respondent is a permanent employee*

having been appointed on compassionate basis. The appointment of the respondent, in fact, is a contractual appointment entitling him to continue as such in service and to claim regularization if so advised in accordance with law.

Para 21:- *The judgments and orders of the High Court dated 12.01.2018 and 12.09.2018 are set aside to the extent they hold the appointment to be on compassionate basis under the Dying in Harness Rules and that of a permanent nature but quashing of the termination order is maintained.”*

21. However, as the learned counsel for the petitioners has confined his argument only on the point of prohibiting the petitioners from teaching in any other educational institutions in the State of Jharkhand, this Court at this stage finds that the Order dated 23.12.2023, so far as disengaging the petitioners is concerned, it may not be treated as penal in nature and this Court refrains from giving any finding with respect to it at this stage as the Chancellor has not been made a party in this case.

Therefore, the second part of the order, by which the petitioners have been prohibited from teaching at any other educational institution in the State of Jharkhand, is set aside as the action appears to be harsh and arbitrary and that too without hearing them and without issuing any Notice to the petitioners.

22. Accordingly, the second part of the order dated 23.12.2023, relating to debarring of the

petitioner from teaching in any educational institution in the State of Jharkhand, is set aside as no blanket prohibition order can be passed against any person including the writ petitioners from teaching in any other institution for the purpose of teaching without initiating any proceeding against them for the present and the petitioners are held eligible to apply in any Institutions in future, if any vacancy arises, for the present.

23. Thus, this writ petition is partly allowed with the aforesaid observation and direction.

(Sanjay Prasad, J.)

Jharkhand High Court, Ranchi
Dated 4th September, 2024
N.A.F.R./s.m.