



# GOVERNOR'S SECRETARIAT, BIHAR

RAJ BHAVAN, PATNA-800022

Letter No.- PU(Appeal)-33/2010-\_\_\_\_\_/GS(I),

Dated-

From,

A L Srivastava  
Officer on Special Duty (Judicial)

To,

The Vice Chancellor  
Patna University,  
Patna.

**FAX**

Sub:- Common Order passed on appeal of Dr. Prakash Chandra Verma, Ex-Coordinator, BBA cum HOD of Economics, Patna College, Patna and Shri Tripurari Singh, Instrument Keeper Deptt. of Geography, Patna University, Patna against dismissal from service.

Sir,

I am directed to invite a reference to this Secretariat's letter no-PU(Appeal)-33/2010-906/GS(I), dated 16-06-2015 on the above subject and to enclose herewith a copy of the order dated 25<sup>th</sup> July, 2015 passed by Hon'ble Chancellor after hearing the concerned parties and the University for information and necessary follow-up action forthwith under intimation to this Secretariat.

Yours faithfully,

Encl:-As above.

Sd/-

(A. L. Srivastava)  
Officer on Special Duty (Judl.)

Memo No.- PU(Appeal)-33/2010-\_\_\_\_\_/GS(I),

Dated-\_\_\_\_\_

Copy alongwith copy of order dated 25<sup>th</sup> July, 2015 passed by the Hon'ble Chancellor forwarded to Dr. Prakash Chandra Verma, Ex-Coordinator, BBA cum HOD of Economics, Patna College, Patna for information and necessary action.

Sd/-

Officer on Special Duty (Judl.)

Memo No.- PU(Appeal)-33/2010-\_\_\_\_\_/GS(I),

Dated-\_\_\_\_\_

Copy alongwith copy of order dated 25<sup>th</sup> July, 2015 passed by the Hon'ble Chancellor forwarded to Shri Tripurari Singh, Instrument Keeper Deptt. of Geography, Patna University, Patna for information and necessary action.

Sd/-

Officer on Special Duty (Judl.)

Memo No.- PU(Appeal)-33/2010-\_\_\_\_\_/GS(I),

Dated-\_\_\_\_\_

Copy alongwith copy of order dated 25<sup>th</sup> July, 2015 passed by the Hon'ble Chancellor forwarded to the Principal Secretary, Education Department, Govt. of Bihar, Patna for information.

Sd/-

Officer on Special Duty (Judl.)

Memo No.- PU(Appeal)-33/2010-1074/GS(I),

Dated-29-07-2015

Copy alongwith copy of order dated 25<sup>th</sup> July, 2015 passed by the Hon'ble Chancellor forwarded to I/c Computer Cell for uploading on the website of Raj Bhavan, Patna.

Encl.-As above.

Officer on Special Duty (Judl.)

Appeal No. 30/2014  
PU-33/2010

Dr. Praksh Chandra Verma, University Professor, HoD, Economics

Versus

Patna University and others

AND

Appeal No. 29/2014

PU-24/2010

Tripurari Singh, Instrument Keeper

Vs.

Patna University and others

**Order**

1. Above mentioned two appeals have been filed under Section 11(17) of Patna University Act, 1976 as amended upto date with a prayer to quash the dismissal order dated 03.06.2010. Since common questions are involved in both the appeals hence the same are being decided by one and common order.

2. ~~These~~<sup>the</sup> appeals have been filed by the appellants Dr. Praksh Chandra Verma, University Professor & HoD, Economics, Patna College, Patna-cum-Course Co-ordinator of B.B.A. Course and Sri Tripurari Singh, Instrument Keeper, Department of Geography, Patna College, Patna against the order dated 03.06.2010 passed by the then Vice Chancellor of the Patna University under Section 11(16) of the said Act dismissing both the appellants from the service. The orders of dismissal were communicated to the appellants under the signature of the Registrar of the University through Memo No. GFN-866 & 720/R dated 03.06.2010 respectively.

The facts of both the appeals, in brief, are as follows:-

- (i) The Bachelor of Business Administration (B.B.A.) Course was launched by Patna College under Patna University in year 2005-06 under self financing basis. This course attracted a large number of candidates. The admission to this course was made on the basis of written test followed by group discussion and personnel interview. The test was conducted by a Central Admission Committee of Patna College constituted by the Principal for preparing the merit list of all the Self Financing Courses running in the College.
- (ii) On the basis of some complaints regarding commission of irregularity in admission of the students in B.B.A. Course for the year 2008-10, the Vice Chancellor, Patna University constituted a Fact Finding Committee comprising of three Professors, (i) Dr. B.K. Sharma, Principal Science College, (ii) Dr. K.N. Paswan, Director, D.D.E., P.U. & (iii) Dr. B.K. Mishra, Professor, Department of Geology, P.U. to examine the process of admission in B.B.A. Course.
- (iii) The said Committee gathered the information with regard to irregularities in the process of admission and also recoded the statements of the complainants and the delinquents and found that only 60 seats were sanctioned for admission in B.B.A. Course whereas 146 extra candidates were allowed to be admitted, which was illegal.
- (iv) The said Committee recommended as follows:-
  - (a) All the admissions made by the Course Co-ordinator beyond the sanctioned 60 seats were illegal.
  - (b) The course Co-ordinator Dr. P.C. Verma who had control over the entire process of admission did not obtain any permission either from the Patna University or Patna College.

- (c) It appears that Patna College Principal-cum-Course Director Professor Ran Vijay Kumar is not directly involved in this reckless act of admission, but he cannot be absolved of the responsibility towards ensuring all fairness in admission.
- (d) All persons associated with the office work of B.B.A. Course be removed. Sri. T.P. Singh should be sent back to his original post of Lab Assistant and guest faculty A. Rahman be removed from teaching work. Manish Kumar should also be removed from this post.
- (e) A fool-proof mechanism should be developed to ensure fair admission.
- (f) P.U. Office must also have acted promptly on the H.R.D. Minister's letter. The present crisis could have easily been avoided if the University had taken a stand on H.R.D. Minister's letter swiftly.
- (g) Admission of students against N.R.I. Quota should also be made on the basis of merit.
- (h) The entire matter of admission of students of the Patna College in B.B.A. Course (2008-11) should be handed over to the State Vigilance Department for a thorough probe as there are serious apprehension of large scale financial irregularities in the process.
- (v) The three member facts finding committee submitted its report on 15.11.2008 in which it was found that the admissions in B.B.A. Course were taken beyond the number of sanctioned seats and the Course Director, Course Co-ordinator and concerned dealing assistants were found responsible for taking admission beyond sanction seats.



- (vi) The admissions of all the students, who were admitted in excess of the sanctioned seats, were declared null and void and admission fees of such students were refunded.
- (vii) On the basis of the report of the said Committee Dr. Prakash Chandra Verma, Course Co-ordinator, Dr. Ran Vijay Singh, Principal, Patna College-cum-Director of the Course and Sri Tripurari Singh, Dealing Assistant were put under suspension by the University.
- (viii) The students, whose admission were declared null and void filed a writ petition bearing number C.W.J.C. No. 17966 of 2008 before the Hon'ble High Court, Patna which was dismissed by the Hon'ble High Court, Patna on 09.01.2009.
- (ix) After passing the orders of suspension the University served a charge-sheet upon both the appellants to which the appellants submitted their explanation.
- (x) The University neither passed any order on the explanation of the appellants nor the order of suspension was revoked.
- (xi) The University appointed Sri G.P. Srivastava, Retired Additional District Judge as Enquiry Officer to enquire into the charges levelled against the appellants.
- (xii) The Enquiry Officer submitted his report after concluding the departmental proceeding and thereafter a second show cause notice was issued to the appellants as to why they not be dismissed from service of the University.
- (xiii) On the basis of the enquiry report of the Enquiry Officer the appellants, namely Dr. Prakash Chandra Verma, Course Co-ordinator, Patna College, and Sri Tripurari Singh, Dealing Assistant were dismissed from service vide Memo No. GEN/866 & Memo No. 720/R dated 03.06.2010 respectively.

- (xiv) Dr. Ran Vijay Kumar, the Course Director of the B.B.A. Course who had also been dismissed on 03.06.2010 by the University preferred an appeal before the Hon'ble Chancellor and the then Hon'ble Chancellor was pleased to set aside the order of dismissal from service of Dr. Ran Vijay Kumar on 13.07.2010 in file No. PU-23/2010.

**The case of appellant No. 1, Dr. Prakash Chandra Verma in brief as follows:-**

- (i) That the Hon'ble Chancellor of the University framed a regulation for starting the course of Bachelor of Business Administration (BBA) Degree Programme in Patna University. By virtue of said regulation the candidates seeking admission to the said B.B.A. Course were required to have passed with a minimum marks of 45% in the intermediate examination in Arts/Science/Commerce recognised by the University or Board. The maximum number of seats initially sanctioned was limited to 60 and 5 for N.R.I. only in the college which may be revised with prior permission of the State Government.
- (ii) That on the basis of the said regulation the Vice Chancellor, Patna University has directed to start B.B.A. Course in Patna College, Patna from year 2005.
- (iii) That due to the large strength of the candidates for admission in B.B.A. Course the Principal, Patna College, vide his letter dated 25.07.2007, requested the Vice Chancellor, Patna University to increase the number of general seats from 60 to 120 and from 5 to 20 in N.R.I. Quota.

- (iv) That since the request of the college to increase the number of seats in B.B.A. Course was pending for consideration by the Government, hence a meeting of the members of the Advisory Committee, B.B.A. Course, Patna College was called and accordingly a meeting was convened on 20.08.2008 at 3:00 PM in the chamber of the Course Director-cum-Principal, Patna College, Patna under chairmanship of Dr. A.K. Gupta. In the said meeting the proposal and recommendation for B.B.A. Additional Section had been approved and it had also been decided that all necessary steps should be initiated to start B.B.A. Second shift/Additional Section.
- (v) That on the basis of the resolution of the aforesaid meeting a request letter was sent to the Hon'ble Minister of Human Resources and Development Department requesting therein to send executive order to start Additional Section of B.B.A. Course at Patna College in order to prevent State Money going outside the State of Bihar.
- (vi) That the Hon'ble H.R.D. Minister, in the meeting with the course Co-ordinator, assured that Additional Section as per demand must be started with immediate effect i.e. Session 2008-11 and had been pleased to direct that B.B.A. form for admission should be sold through post-office so that from all Panchayat Bihari Students can get chance to apply for this 100% placement job oriented B.B.A. Course.
- (vii) That admission process was started and by the time the merit list was prepared, the Hon'ble Minister, H.R.D. Department had been pleased to accord approval for start of Additional Section in B.B.A. Course in Patna College. Accordingly the Hon'ble Minister had been pleased to write a letter to the

Vice Chancellor, Patna University vide letter No. 870 dated 01.09.2008 directing therein that the Department of Human Resources and Development, Government of Bihar had agreed to approve the request of the College for starting the Additional Section for B.B.A. Course. A copy of the said letter was also given to the Officer on Special Duty, Raj Bhavan, Patna and the Course Co-ordinator.

- (viii) That thereafter the candidates on the basis of their merit list were selected for admission in the B.B.A. Course and thereafter necessary challans were issued in their favour.
- (ix) That when the process of admission was over the University on receipt of the complaints, constituted a fact finding committee in order to inquire into the process adopted for admission in B.B.A. course beyond sanctioned seats in Patna College.
- (x) That the report of facts finding committee was never served on the appellant No. 1. Even the statement of the Appellant No. 1 was not recorded by the Committee.
- (xi) That the appellant No. 1 submitted his explanation but without considering the explanation the Vice Chancellor has passed an order of dismissal on 03.06.2010.
- (xii) That the appointment of Sri G.P. Srivastava, a retired Additional and Session Judge as an Inquiry Officer, was illegal and void-ab-initio, because it is well settled principle of law that no third person from the outside the University will be appointed as Enquiry Officer.
- (xiii) That it was incumbent upon the University to have the order of dismissal approved from the Syndicate of the University under Section 11(9) of Patna University Act, 1976.

- (xiv) That in an identical case and on the same allegations Professor Ran Vijay Kumar, the Principal-cum-Course Director was also dismissed from service and on an appeal before the Hon'ble Chancellor, the then Hon'ble Chancellor was pleased to allow the appeal by setting aside the order of dismissal of Professor Ran Vijay Kumar.

**The case of appellant No. 2, Sri Tripurari Singh in brief is as follows:-**

- (i) That B.B.A. (Hons) three years degree course Self Financing vocational course was started in Patna College by the letter No.PU-8/2005-851/65(1) dated 11.04.2015 and the appellant was working as Office Assistant in the said course under the Course Co-ordinator Sri P.C. Verma, and so he was duty bound to comply with the orders/instructions of the superior authorities including the Course Director, Course Co-ordinator and other Senior person in the office.
- (ii) That on 04.09.2008 the Course Co-ordinator, Dr. P.C. Verma instructed the appellant to issue challans and as such, it was neither within the power of the appellant nor his duty to disobey the order of superior authorities.
- (iii) That the Course Co-ordinator, Dr. P.C. Verma asked the appellant to issue challan in relation to the additional number of students. He also informed the appellant that the Hon'ble H.R.D. Minister, Government of Bihar has been pleased to approve the increase in number of sections in B.B.A. Course and as a consequence thereof the fresh admission to be taken.

- (iv) That as per the order/direction of the superior authorities the appellant issued challans to the students in favour of whom admission order was given by the Co-ordinator.
- (v) That the fact finding committee had only recommended that the appellant should be sent back to his original post of Lab Assistant and so the committee has not recommended for any harsh action against this appellant.
- (vi) That an outsiders<sup>me</sup> from the University such as Retd. Addl. District Judge cannot be an Inquiry Officer and that the University Authority had violated the mandatory provision of Section 11(9) of the Patna University Act, 1976.

**The University has submitted its parawise comments on both the memo of appeals filed by appellants, which is as follows:-**

- (i) That on receipt of the complaints regarding admission in B.B.A. Course beyond sanctioned seats the University had constituted a Fact Finding Committee to inquire into the matter and the committee submitted its report on 15.11.2008 by holding both the appellants responsible for committing illegalities in the admission.
- (ii) The VC is fully empowered under Section 11(16) of Patna University Act to take disciplinary action against any teacher or employee of the University.
- (iii) The appellants had appeared before the Enquiry Officer Shri G.P. Srivastava and had placed their defences.
- (iv) The statements made by the appellants in their memo of appeals are baseless, incorrect and fit to be dismissed.

In view of the submissions of both the parties the following issues are to be considered:-

- (A) Whether the order of Vice Chancellor for the suspension/dismissal of the appellants was required to be approved by the Syndicate as provided in Section 11(9) of the Patna University Act, 1976 ?
- (B) Whether the appointment of Sri G.P. Srivastava, a Retired Additional District Judge, as Enquiry Officer is legal ? If not, its effect ?
- (C) Whether the orders of dismissal of the two appellants from service are legally and factually justified and sustainable ?

#### Issue (A)

For deciding the issue the provisions of Section 11(9) of the Patna University Act, 1976 as amended up to date has to be looked into. Section 11(9) of the Act is as follows :-

*"The Vice Chancellor shall carry out the orders of the Syndicate in respect of appointment, transfer, discharge or suspension of officers and teachers of the University, and shall exercise general control over the educational arrangement of the University, and shall be responsible for the discipline of the University".*

It is not denied that the orders of suspension and dismissal were never placed before the Syndicate of the University for its approval. It was the duty of the Vice Chancellor to place the orders before the Syndicate for approval. No reason has been put forward on behalf of the Vice Chancellor for not placing these orders before the Syndicate which is the highest body of the University. The plea that the matter of dismissal was not brought to the notice of the Syndicate because an appeal lies to the Chancellor against this under Section 11(17) of the Act, is not correct.

Appeal is only another remedy which an aggrieved person may pursue. The Syndicate has the power to know how the administration of the University is being carried on and to rectify the wrong. It may be noted that had the Syndicate disapproved the order of dismissal, there would have been no question of filing any appeal before the Chancellor. On this point while disposing of the appeal of one delinquent Dr. Ran Vijay Kumar in file No. 23/2010 my predecessor has already expressed his views in his order dated 13.07.2010. So in such circumstances the impugned orders of dismissal of the appellants are not sustainable for want of approval by the Syndicate.

### **Issue (B)**

This issue relates to appointment of a retired Additional District Judge who is an outsider so far as the administration of the affairs of the University are concerned, as the Enquiry Officer in disciplinary proceeding. This question was considered by the Patna High Court in the case of "Dr. Vidyapati Prasad Singh vs. State of Bihar and others, reported in 1996(1) PLJR, 435", in which it was held as follows :-

*"There being no such power vested with the respondents under the Act, and/or Statute to appoint an outsider as an Enquiry Officer, I hold that the appointment of retired District and Sessions Judge as Enquiry Officer in the case of the petitioner is completely illegal".*

The counsel for the parties stated that neither any appeal was filed against it nor any different view was expressed in any other case in the matter of disciplinary proceeding of a University and so the judgment remains operative.



The case of the University is that the Vice Chancellor agreed with the finding of the Enquiry Officer. Since the appointment of the Enquiry Officer was bad in law, his findings cannot be relied on for passing the dismissal orders. There is no independent application of mind by the Vice Chancellor. The order of dismissal of the two appellants passed by the Vice Chancellor are vitiated on this ground also and liable to be quashed.

### **Issue (C)**

In view of the findings on Issue (A) and (B) this issue need not be decided.

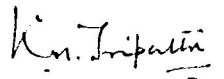
### **Order**

Both the appeals of Dr. Prakash Chandra Verma and Sri Tripurari Singh are allowed and the two orders of dismissal dated 03.06.2010 contained under Memo No. GEN/866 and 720/R respectively in respect of the appellants are hereby quashed.

Both the appellants are hereby directed to be reinstated on their respective posts from the date of their suspension and they shall be deemed to be continued in service on their respective posts and will receive all the due pay, allowances, consequential benefits attached to their posts.

Patna

Dated the- 25<sup>th</sup> July, 2015

  
(Keshari Nath Tripathi)  
Chancellor