
(2010) 04 PAT CK 0147

Patna High Court

Case No: None

Governing Body of R.P.S. College

APPELLANT

Vs

Magadh University

RESPONDENT

Date of Decision: April 13, 2010

Acts Referred:

- Bihar State Universities Act, 1976 - Section 60, 60(2)

Hon'ble Judges: Sheema Ali Khan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sheema Ali Khan, J.

Learned Counsel for the petitioner is permitted to remove the defect as pointed out by the Stamp Reporter during the course of the day.

2. Heard learner Counsel for the petitioner and the State.

3. This application has been filed challenging the order dated 07.04.2010 by which an Adhoc Governing Body has been constituted in terms of Section 60 of the Bihar State Universities Act, 1976 (Annexure-1).

4. The facts are that vide Annexure-3, dated 15.03.2007, a regular Governing Body was constituted for the management of R.P.S. College under the Magadh University. The notification indicates that the Governing Body would co-opt two of the members and also elect their President and the Secretary. The notification itself indicates that the Governing Body had begun to function on the date on which it was constituted. Annexure-2 is a document dated 14.09.2007 by which the Magadh University has approved the constitution of the regular Governing Body.

5. Mr. Ram Balak Mahto, Senior Advocate appearing on behalf of the petitioner has submitted that since the approval of the regular Governing Body was on 14.09.2007, it would be deemed that the period for which the Body would function would begin

on 14.09.2007 and its term would expire as per the Statutes on 13.09.2010 and as such the constitution of the Adhoc Governing Body on 07.04.2010 is unwarranted.

6. Section 60 of the Bihar State Universities Act, 1976 provides that there shall be a Governing Body for the management and administration of each affiliated College other than those colleges run by the State Government or colleges established by the Minority Communities. Sub-section 2 of Section 60 of the Act specifically provides that the term of the Office of the members of the Governing Body, their powers and function shall be such as are prescribed by the Statutes. The Statutes deals with matters and procedure of constitution of the Governing Body. Clause 3 of the Statute provides that the term of the Office of the members of the Governing Body other than Teacher member and the University Representative shall be for a period of 3 years from the date of their election, nomination or co-option, as the case may be and shall include any further period not exceeding 3 months that may elapse between the expiry of their terms and the next election, nomination or co-option. It is also provided that the term of the University Representative and the Teacher Member shall be for 1 academic session. Obviously, Clause 3 has to be interpreted to mean that the Governing Body would be considered to be constituted and functioning from the date on which the members are elected, nominated or co-opted except for those members of the Governing Body such as University Representative and the Teacher Member who have a term of one academic session. The Statutes also provides a procedure for which the Governing Body can be dissolved during its tenure i.e. within the period of three years. The reasons for which it can be dissolved and the manner in which it can be dissolved is mentioned in Clause 28 of the said Statutes. However, those aspects of the matter is not very important in view of the fact that the Governing Body has not been dissolved by virtue of reasons mentioned under Clause 28 of the Statutes rather the Governing Body has lost its force by virtue of the fact that the life of the Governing Body being three years had expired on 14.03.2010. There is a provision in the Statutes that the life of the Governing Body can be extended by three months. Since, the period of three months has also expired, I do not find that the action of the University in constituting the Adhoc Governing Body for the management of the R.P.S. College, Patna is illegal or irregular or beyond the provisions of the Bihar State Universities Act, 1976.

7. In the result, this application is dismissed.

8. It is obvious that a regular Governing Body will be constituted by the University expeditiously.