

(1991) 12 PAT CK 0034

Patna High Court

Case No: C.W.J.C. No. 8813 of 1991

Dr. Prabhakar Sinha

APPELLANT

Vs

Bihar University and Another

RESPONDENT

Date of Decision: Dec. 20, 1991

Acts Referred:

- Constitution of India, 1950 - Article 14

Citation: (1992) 2 BLJR 1163 : (1995) 1 PLJR 490

Hon'ble Judges: R.M. Prasad, J; B.P. Singh, J

Bench: Division Bench

Judgement

B.P. Singh and R.M. Prasad, JJ.

The petitioner has impugned the notice (Annexure-1) issued by the Registrar, the relevant portion of which reads as follows:

The Vice-Chancellor has been pleased to order that the salary bill of teachers may be sent to the University by the 18th of each month for disbursement and it may not be necessary to attach their monthly progress report along with the salary bills.

However, it is made clear that it is mandatory on the part of teachers to submit their monthly progress report to the University through the concerned heads of Institution so as to reach the University latest by the 5th of every month.

I am further directed to inform you that the salary bill of teachers for the month of October, 1991 may now be sent to the University immediately for disbursement. As a special case the progress report for the month of October, 1991 must reach the University in prescribed manner latest by the 25th November, 1991, failing which it may not be possible to release their salary for the month of November, 1991.

2. The petitioner claims to be an University Professor of English in the Bihar University posted at R.D.S. College, Muzaffarpur. His case is that the Vice-Chancellor has passed the impugned order on the direction of the Chancellor of the University

and the same has been notified by the Registrar of the University. The notice is impugned on three main grounds.

3. It is firstly contended that by the impugned notice a new service condition has been added, which is unwarranted. He submits that in the absence of any provision in the Statutes authorising the action contemplated by the notice, the notice is illegal. He further submit that the notice imposes a punishment which is contrary to the Statutes, He lastly submits that even if such conditions were incorporated in the Statutes of the University, it would be contrary to Article 14 of the Constitution, being arbitrary unreasonable and coercive.

4. A mere reading of the notice leaves no room for doubt that it does not impose a new condition of service, nor is it a punishment. It only requires the teachers to submit their monthly progress report to the University through the concerned heads of Institution by the 5th of every month. The proforma attached to the notice requires the teachers concerned to give particulars about the number of classes engaged, number of classes allotted, and the topic class wise. It also provides a column for indicating whether the teacher concerned was on leave, and if so for what duration. Column 6 of the proforma provides for giving reasons, if any, for not engaging the allotted classes. It is, therefore, obvious that the sole purpose, which the order of the Vice-Chancellor seeks to achieve, is to ensure that the teachers do engage the classes allotted to them every month. This is purely a regulatory measure, and the objective sought to be achieved is in public interest. We fail to understand how the measure can be said to be a punitive measure.

5. Nothing has been brought to our notice in the Statutes which prohibit the University from requiring the teachers to submit progress report. In the absence of anything to the contrary in the Statutes, the notice appears to be perfectly justified. Since we have no doubt that the notice does not impose a punishment, it is unnecessary to refer to the Statutes, which provide for the punishments that may be inflicted against an employee/teacher of the University.

6. It was contended that the order of the Vice-Chancellor is unreasonable and arbitrary, Learned Counsel submitted that the order offends the dignity of the teachers. If the object of the order is to ensure that the teachers do engage classes allotted to them, that will not be achieved. We are not concerned with the effectiveness of the measure taken. We are only concerned with the legality of the order, and whether it is reasonable and serves public interest. May be, other orders may follow. Moreover, reasonableness of an action must be judged not in vacuum, but in the light of surrounding circumstances and the realities of the situation.

7. It is indeed heartening to notice that the University has woken up at last from its deep slumber. The system of education in this State is in shambles. Classes are not held, examinations are not held in time, results are not declared in time, and about the environment prevailing in the University campus, the less said the better.

Indiscipline has become rampant. One need not blame only the students, because others are equally blameworthy. The net result is that there is hardly any University education in this State, and if there is any, it is hardly of the requisite standard. Consequently, there is exodus of serious students from the State of Bihar, who have flooded several Universities outside the State. Unfortunately, for the State they are lost to the State for all times, because they do not wish to come back after they have obtained their degree from other Universities. This is an unfortunate state of affairs, and the State is poorer for that reason. It is high time that the Universities as well as the Government realise the gravity of the situation and take appropriate measures to see that the teachers as well as the students come to the class room. The order of the Vice-Chancellor aims to achieve this objective and we have, therefore, no hesitation in holding that the order subserves a public interest. Even if there is a clash between the interest of the teachers and the interest of the society at large, the narrower interest of the teachers must give way to the larger interest. We may observe that the situation in this State is so pathetic and pitiable, so far the educational atmosphere is concerned, that one who does not reside in this State may not even be able to imagine the state of affairs prevailing in this State. One has to live in this State to appreciate the reality of the situation.

8. Curiously enough, it was urged before us that the order requiring the teachers to fill up the proforma is alien to labour jurisprudence. It is well settled that the teachers of the University are not workmen. That being so, the concept of labour jurisprudence is alien so far as the teachers of the University are concerned. The submission however, reflects the real attitude of the teachers in this State. They claim that they should be paid without anyone asking them the question as to whether they have engaged classes at all in the month.

9. We have, therefore, come to the conclusion that the order of the Vice-Chancellor as notified by the Registrar is reasonable and also in larger public interest. No one has questioned the dignity of the teachers, who impart knowledge to the coming generation. At the same time, the teachers of the University are also expected to behave in a dignified manner, so that instead of demanding respect, they command respect. If a teacher is asked to furnish particulars as to the number of classes engaged by him in course of a month as against the number of classes allotted, it cannot be said that offends his dignity. If a teacher feels offended by the measure, he suffers a false sense of dignity. Public accountability is a necessary concomitant of a democratic society.

10. We, therefore, find no merit in this petition. The order of the Vice-Chancellor is reasonable and in the larger public interest. It does not impose a new condition of service nor does it impose a punishment not contemplated by the Statutes of the University. This writ petition is devoid of merit and is, therefore, dismissed.