IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13475 of 2022

CNR No. BRHC010729782022

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Birendra Prasad Thakur S/o Rajendra Prasad Thakur resident of Near Rudra Sanskrit Maha Vidyalaya, Ward No. 2, P.O. and P.S.- Hulas, District- Supaul. Pin- 852111.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
4. Vice-Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 13929 of 2022

CNR No. BRHC010729782022

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1. Dr. Navin Kumar Son of Late Amir Singh, resident of Purani Dharamshala Compound, Paan Mandi, Near Kathi Pul Gali, Post-Muzaffarpur, P.S.- Muzaffarpur, Pin Code-842 001.
2. Dr. Shashi Prakash, Son of Shri Umesh Prasad Singh, resident of Ward No. 12, Village-Rahimpur, P.O.-Rahimpur Pachkhutti, District-Khagaria, Pin Code-851 204.
3. Dr. Dharmendra Tiwari, Son of Shri Sriram Tiwari, resident of Devi Mandir, Ramna, Musahari, District-Muzaffarpur, Pin Code-842002.
4. Santosh Kumar, Son of Shri Mohan Dubey, resident of Village-Barmaswa, Post-Barmaswa, Turkaulia, District-East Champaran, Pin Code-845 437.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University Darbhanga through its Registrar.
4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

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5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
6. Principal, Juthalal Sanskrit College, Majhaulia, District-West Champaran.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 17862 of 2022

CNR No. BRHC010729782022

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Avinash Kishor son of Lakhendra Sahani resident of Ganga urf Baikatpur, P.O.- Asnagar, P.S.- Bishunpur, District- Muzaffarpur, Bihar, Pin Code- 843111.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its Registrar.
4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
6. Hathua Raj Gyanoday Sanskrit Upshastri College, Mandiri, Patna through its Secretary.
7. Secretary, Governing Body, Hathua Raj Gyanoday Sanskrit Upshastri College, Mandiri, Patna.
8. Principal, Hathua Raj Gyanoday Sanskrit Upshastri College, Mandiri, Patna.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 3121 of 2023

CNR No. BRHC010729782022

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Prabha Shankar Pramod Son of Rakesh Kumar Sahani, resident of village - Asanagar, Bishunpur Ganga Urf Baikatpur, P.O. and P.S. - Bakatpur, District - Muzaffarpur, Pin Code - 843111.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit University, Darbhanga through its

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Registrar.

4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
6. Rudra Sanskrit Upshastri College, Hulas, Supaul through its Secretary.
7. Secretary, Governing Body, Rudra Sanskrit Upshastri College, Hulas, Supaul.
8. Principal, Rudra Sanskrit Upshastri College, Hulas, Supaul.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 3415 of 2023

CNR No. BRHC010729782022

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1. Minu Mishra Wife of Dr. Ashwini Kumar Mishra Resident of Raj Vijay Bhawan, Ward No. 02, N.H. 28A, Near Awadhesh Chowk, Kolhuarwa, P.O. and P.S.- Motihari, District- East Champaran, Pin Code- 845401.
2. Shri Kesh Chaturvedi Son of Tribhuwan Chaturvedi Resident of P.O.- Bahuarwa, P.S.- Lauriya, District- West Champaran, Pin Code- 845453.
3. Raj Kishore Kumar, Son of Sipahi Sahni Resident of Bairagi Toal, P.O.- Bakhri, P.S.- Bakarpur Jagat, District- East Champaran, Pin Code- 845413.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Education Department, Bihar, Patna.
3. Kameshwar Singh Darbhanga Sanskrit Universtiy, Darbhanga through its Registrar.
4. Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit Universtiy, Darbhanga.
5. Registrar, Kameshwar Singh Darbhanga Sanskrit Universtiy, Darbhanga.
6. Shree Harihar Sanskrit Mahavidyalaya, Bakulharmath, Chanpatiya, West Champaran, Pin Code- 845449 through its Secretary.
7. Principal, Shree Harihar Sanskrit Mahavidyalaya, Bakulharmath, Chanpatiya, West Champaran, Pin Code- 845449.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 6256 of 2023

CNR No. BRHC010729782022

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Ashutosh Dwivedi Son of Indradeo Dwivedi. Resident of Village - Dumaria, P.S. - Shikarpur, District - West Champaran at present Graduate Teacher in Janki Sanskrit Upshashtri College, Narkatiyaganj, West Chamaparan.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Director, Department of Education, Government of Bihar, Patna.
4. Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga through its Registrar.
5. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
6. The Registrar, Kameshwar Singh Darbhanga Sanskrit Universityy, Kameshwar Nagar, Darbhanga.
7. Janki Sanskrit Upshashtri College, Narkatiyaganj, West Champaran through its Secretary.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 16405 of 2023

CNR No. BRHC010729782022

==========

Manoj Son of Keshav Prasad Singh, Resident of Village- Naraur, P.S.- Rohaniya, District- Varanasi (U.P).

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Govt. of Bihar, Patna.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 16447 of 2023

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CNR No. BRHC010729782022

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Santosh Kumar Son of Sri Yogendra Mishra, Resident of Village Rikabganj, Tikari, P.S. -Tikari, District - Gaya.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Govt. of Bihar, Patna.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 31 of 2024

CNR No. BRHC010729782022

==========

Anil Kumar Thakur Son of Nripendra Prasad Thakur, Resident of Village Hulas, P.S. - Raghopur, District - Supaul.

... ... Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Higher Education, Govt. of Bihar, Patna.
4. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.
5. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 3163 of 2024

CNR No. BRHC010729782022

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Dr. Upendra Kumar Sharma Son of Late Jaleshwar Sharma Resident of Village- Taret P.O. and P.S.- Naubatpur, District-Patna at Present Working as

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Assistant Professor in the Department of Hindi in Bharateshwari Marwari Sanskrit College, Chhapra (Saran).

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secreary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Department of Education, Government of Bihar, Patna.
4. Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga through its Registrar.
5. The Vice Chandellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
6. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
7. Bharateshwari Marwari Sanskrit College, Chhapra (Saran) through its Secretary.

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 3260 of 2024

CNR No. BRHC010729782022

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Rambabu Tiwari @ Ram Babu Tiwari Son of Bir Bahadur Tiwari, resident of Belbanwa, Ward No.22, Motihari, P.S.-Harsidhi, District-East Champaran, at present posted as Principal in Rishi Kulashram Sanskrit College, Sangrampur, District-East Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Department of Education, Government of Bihar, Patna.
4. Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga through its Registrar.
5. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
6. The Registrar, Kameshwar Singh Darbhanga Sanskrit University, Kameshwar Nagar, Darbhanga.
7. Rishi Kulashram Sanskrit College, Sangrampur, District East Champaran through its Secretary.

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... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 3677 of 2024

CNR No. BRHC010729782022

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Dr. Vikash Kumar Son of Rambachan Sharma, Resident of Village-Raghunathpur, P.O. and P.S.-Hulasganj, District-Jehanabad at present Assistant Professor in the subject of History in Sri Ram Sanskrit College, Sarauti, P.O.-Rampur Chauram, District-Jehanabad.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Department of Education, Government of Bihar, Patna.
4. Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar Darbhanga through its Registrar.
5. The Vice Chancellor, Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga.
6. The Registrar, Kameshwar Singh Darbhanga Sanskrit University Kameshwar Nagar, Darbhanga.
7. Sri Ram Sanskrit College, Sarauti, P.O.-Rampur Chauram, District Jehanabad through its Principal.

... ... Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 13475 of 2022)

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
Mr. Maruti Kumar, Advocate

For the Respondent/s : Mr. Brajesh Kumar Pandey, SC-8

(In Civil Writ Jurisdiction Case No. 13929 of 2022)

For the Petitioner/s : Mr. Abhinav Srivastava, Sr. Advocate
Mr. Raushan, Advocate
Mr. Akshat Kumar, Advocate
Mr. Chinmay Harsh Kumar, Advocate
Ms. Megha Kumari, Advocate

For the Respondent/s : Mr. Arvind Kumar, GP- 5

(In Civil Writ Jurisdiction Case No. 17862 of 2022)

For the Petitioner/s : Mr. Abhinav Srivastava, Sr. Advocate
Mr. Raushan, Advocate
Mr. Akshat Kumar, Advocate
Mr. Chinmay Harsh Kumar, Advocate
Ms. Megha Kumari, Advocate

For the Respondent/s : Mr. Radha Raman, GP- 24
Mr. Sapan Kumar, AC to GP- 24

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Mr. Ravi Kant Pandey, AC to GP-24
Mrs. Babita Kumari, AC to GP- 24
Mr. Anurag Kumar, AC to GP- 24

(In Civil Writ Jurisdiction Case No. 3121 of 2023)
For the Petitioner/s : Mr. Abhinav Srivastava, Sr. Advocate
Mr. Raushan, Advocate
Mr. Akshat Kumar, Advocate
Mr. Chinmay Harsh Kumar, Advocate
Ms. Megha Kumari, Advocate
For the Respondent/s : Mr. Kaushal Kishor, GP- 29

(In Civil Writ Jurisdiction Case No. 3415 of 2023)
For the Petitioner/s : Mr. Abhinav Srivastava, Sr. Advocate
Mr. Raushan, Advocate
Mr. Akshat Kumar, Advocate
Mr. Chinmay Harsh Kumar, Advocate
Mrs. Megha Kumari, Advocate
For the Respondent/s : Mr. Kumar Samarjeet Singh, GP- 23

(In Civil Writ Jurisdiction Case No. 6256 of 2023)
For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respondent/s : Mr. Kumar Samarjeet Singh, GP- 23

(In Civil Writ Jurisdiction Case No. 16405 of 2023)
For the Petitioner/s : Mr. Satyam Shivam Sundaram, Advocate
Mr. Aman Kumar, Advocate
For the Respondent/s : Mr. Jainendra Kr. Pushkar, AC to SC-18

(In Civil Writ Jurisdiction Case No. 16447 of 2023)
For the Petitioner/s : Mr. Satyam Shivam Sundaram, Advocate
Mr. Amar Kumar, Advocate
For the Respondent/s : Mr. Ramanurag Singh, SC- 37

(In Civil Writ Jurisdiction Case No. 31 of 2024)
For the Petitioner/s : Mr. Satyam Shivam Sundaram, Advocate
Mr. Amar Kumar, Advocate
For the Respondent/s : Mr. Prabhu Narayan Sharma, SC- 22
Mr. Ankit, AC to SC- 22

(In Civil Writ Jurisdiction Case No. 3163 of 2024)
For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respondent/s : Mr. Maurya Vijay Chandra, AAG-2
Mr. Gaurav Vardhan Singh, AC to AAG-2
Ms. Ritambhara, AC to AAG-2
Mr. Iqbal Asif Niazi, A.C. to G.A.-14.

(In Civil Writ Jurisdiction Case No. 3260 of 2024)
For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respondent/s : Mr. Shashi Bhushan Kumar, AAG-13

(In Civil Writ Jurisdiction Case No. 3677 of 2024)
For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respondent/s : Mr. Shashi Bhushan Kumar, AAG-13

For the University in all the above cases : Mr. Binay Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH

CAV JUDGMENT

Date : 20-11-2026

Heard learned counsel for the petitioners in all the writ applications, learned counsel representing the State-respondents, and learned counsel appearing on behalf of Kameshwar Singh Darbhanga

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Sanskrit University.

2. Since all the writ petitions involve common questions of law regarding the requirement of prior approval of the State Government under Section 35(2) of the Bihar State Universities Act, 1976, with regards to appointments made against pre-existing sanctioned posts, the validity of orders of disapproval passed by the Directorate of Higher Education, the legality of consequential termination directives issued by the University, the entitlement of petitioners to continuity of service along with salary benefits, hence they have been heard together and are being decided by this common judgment.

Birendra Prasad Thakur v. The State of Bihar & Ors. (Civil Writ Jurisdiction Case No. 13475 of 2022)

3. The instant writ application has been filed by the petitioner seeking inter alia for the following reliefs:

i. *For quashing the letter dated 16/06/2022 bearing memo no. 517 issued by the Registrar, Kameshwar Singh Darbhanga Sanskrit University, directing to take steps towards terminating the services of the petitioner pursuant to letter dated 21/04/2022 bearing memo no. 905 issued by the Education Department.*
ii. *For quashing the order dated 21/04/2022 bearing memo no. 905 issued by the Director, Higher Education, Education Department, Bihar, Patna, rejecting the recommendation made by the University for grant of approval of the appointment of the*

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petitioner against the sanctioned vacant post of Principal of Rudra Sanskrit Upshastri College, Supaul.

iii. *For directing the respondent authorities under the Education Department and the University to grant approval to the appointment of the petitioner against the sanctioned vacant post of Principal, and release necessary funds for ensuring payment of current and arrear salary.*

iv. *For directing the respondents to make payment of all consequential benefits including current salary and arrears of salary.*

v. *For any other relief which the petitioner may be found entitled to.*

Facts of the Case

4. Brief facts emerging from the pleadings submitted by the parties in C.W.J.C. No. 13475 of 2022 are that Rudra Sanskrit Upshastri College, Supaul, is a full deficit grant status college affiliated with Kameshwar Singh Darbhanga Sanskrit University, where the post of Principal and other teaching posts are duly sanctioned by the Education Department of the State Government.

5. During the relevant time, the Secretary of the College furnished a draft advertisement for the vacant post of Principal, which was duly approved by the Registrar of the University vide letter dated 17/01/2012. Pursuant thereto, an advertisement was issued on 25/01/2012, inviting applications from eligible candidates. The petitioner, Birendra Prasad Thakur, submitted his application in the

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prescribed manner.

6. In accordance with Section 57A of the Bihar State Universities Act, 1976 (as amended) and statutes framed under Section 57B, a selection committee was constituted with a University representative, been nominated vide letter dated 27/09/2012. The selection committee conducted interviews and prepared a panel of 3 names in order of preference, placing the petitioner at serial no. 1. On 28/10/2012, the Governing Body of the College unanimously decided to appoint the petitioner against the sanctioned vacant post of Principal. The petitioner submitted his joining on 04/11/2012 and was continuously discharging his duties.

7. Subsequently, the Approval, Seniority and Pay Fixation Committee of the University considered and approved the petitioner's appointment w.e.f. his date of joining (i.e. on 04/11/2012) during its meeting on 15/12/2016, which was further approved by the syndicate of the University on 23/01/2017, and notified vide notification dated 13/07/2018 (Memo No. 1057).

8. As salary was not being disbursed, the petitioner filed C.W.J.C. No. 13845 of 2014, which was disposed of on 14/09/2018, directing the State authorities to take appropriate steps for release of adequate funds for payment of dues within 60 days. Although the University requested the release of ₹41,25,664/- on 09/01/2019 and included the petitioner's name in its budgets for 2018-19 and 2020-21,

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the State did not release the funds. Instead, after various rounds of correspondences and queries, the Director, Higher Education, issued the impugned order dated 21/04/2022 (Memo No. 905), rejecting the University's recommendation for approval under Section 35(2) of the Bihar State Universities Act, 1976. Consequently, the University issued the impugned letter dated 16/06/2022 (Memo No. 517), directing to take steps toward terminating the petitioner's services.

Submissions on behalf of the Petitioner

9. Learned counsel for the petitioner submits that the petitioner's appointment as Principal was made strictly in accordance with Section 57A of the Bihar State Universities Act, 1976, and the statutes framed thereunder, following a proper selection process conducted by a duly constituted selection committee containing a University representative. It has been contended that the statutory bodies of the University—namely the Approval, Seniority and Pay Fixation Committee and the Syndicate, duly approved the petitioner's appointment w.e.f. 04/11/2012, which was formally notified in the year 2018.

It has been further submitted that the action on the part of the respondent authorities under the Education Department in not granting approval as well as not making available necessary funds for making payment of current salary and arrears of salary is highly arbitrary, unreasonable, and in blatant disregard and violation of Articles 14, 16, & 21 of the Constitution of India, subjecting the petitioner to extreme detriments and financial hardships, thus placing him under abject

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penury.

Submissions on behalf of the State

10. The Director, Higher Education, rightly rejected the proposal for approval vide order dated 21.04.2022, rendering the consequential steps by the University entirely legal and justified.

Submissions on behalf of the Respondent-University

11. Learned counsel appearing on behalf of the Kameshwar Singh Darbhanga Sanskrit University submitted that the petitioner was appointed against a sanctioned vacant post of Principal at Rudra Sanskrit Upshastri College, Supaul, following a selection process initiated by the College. It is submitted that the appointment of the petitioner was considered and approved by the Approval, Seniority and Pay Fixation Committee of the University on 15/12/2016 w.e.f. his date of joining, and was further approved by the Syndicate of the University on 23/01/2017, leading to the issuance of notification bearing Memo No. 1037 dated 13/07/2018.

12. It is further submitted that when the Education Department reviewed the matter and issued Memo No. 905 dated 21/04/2022, declaring the appointment to be in violation of Section 35(2) of the Act, and directing the service to be terminated, the University acted strictly in compliance with the State Government's directive by issuing Memo No. 517 dated 16/06/2022, thereby cancelling the approval and directing the College to take necessary action.

Dr. Navin Kumar & Ors Versus The State of Bihar (Civil Writ Jurisdiction Case No. 13929 of 2022)

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13. The present writ application has been filed by the petitioners seeking inter alia the following reliefs:

> **(i)** *Issuance of a direction, order, or writ, including a writ in the nature of certiorari, quashing the letters dated 16.06.2022 issued by the concerned authorities under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred to as "the University"), by which the Secretary/Principal of Juthalal Sanskrit College, Majhaulia, West Champaran (hereinafter referred to as "the College") has been directed to terminate the services of the petitioners in the light of the orders dated 21.04.2022 passed by the Director, Higher Education, Education Department, Bihar, Patna;*
>
> ***(ii)*** *Issuance of a direction, order, or writ, including a writ in the nature of certiorari, quashing the orders dated 21.04.2022 passed by the Director, Higher Education, Education Department, Bihar, Patna, by which the recommendation and approval of the University in favour of the appointments of the petitioners against different sanctioned posts at the College have been rejected on patently misconceived and untenable grounds, contrary to the provisions contained under the Bihar State Universities Act, 1976 and the Statutes framed thereunder;*
>
> ***(iii)*** *Issuance of a direction, order, or writ, including a writ in the nature of mandamus, commanding the concerned respondent authorities under the University as well as the Education Department of the State Government and the College to allow the petitioners to continue against their respective posts in the services of the College against which posts they have been appointed strictly in accordance with law, and to extend all consequential benefits including payment of regular salary along with arrears of salary and other benefits that they may be found legally entitled to;*

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(iv) *Any other relief or reliefs that the petitioners may be found entitled to in the facts and circumstances of the present case.*

Facts of the Case

14. Brief facts emerging from the pleadings submitted by the parties in the case of C.W.J.C. No. 13929 of 2022 are that Juthalal Sanskrit College, Majhaulia, West Champaran is a permanently affiliated college of Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, enjoying the status of a full deficit grant-in-aid college.

By Resolution dated 18.10.1976 issued by the Education Department, State of Bihar, 10 teaching posts (including 1 post of Principal and 9 Lecturers/Teachers) and 4 non-teaching posts (1 Clerk, 1 Typist, 1 Peon, and 1 Night Guard) were sanctioned for non-Government Sanskrit educational institutions/colleges affiliated with the University.

On 13.03.2013, the University furnished an approved list of experts to the Secretary of the College for constituting a Selection Committee in terms of Section 57(A) and Section 57(B) of the Bihar State Universities Act, 1976. Thereafter, an advertisement was published by the College on 26.03.2013 inviting applications for sanctioned vacant posts, including the post of Principal, Lecturer in Jyotish, Lecturer in Ved, and Peon.

15. Pursuant to the said advertisement, Petitioner No. 1 (Dr. Navin Kumar) applied for the post of Principal; Petitioner No. 2 (Dr. Shashi Prakash) applied for the post of Lecturer in Jyotish; Petitioner No. 3 (Dr. Dharmendra Tiwari) applied for the post of Lecturer in Ved; and Petitioner No. 4 (Santosh Kumar) applied for the post of Peon.

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In furtherance of the interview letters dated 16.06.2013 being issued to the petitioners, the petitioners appeared before the duly constituted Selection Committee. Based on their performance and the recommendations of the Selection Committee, the Governing Body of the College, in its meeting dated 02.07.2013, approved their selection. Appointment letters dated 04.07.2013 were issued, pursuant to which Petitioner Nos. 1 & 3 joined on 08.07.2013, while Petitioner Nos. 2 & 4 joined on 09.07.2013.

16. Thereafter, the Approval, Seniority and Pay Fixation Committee of the University evaluated the selection process and approved the petitioners' appointments. The Syndicate of the University, in its meeting dated 24.03.2018, confirmed the approval, which was formally notified vide Notification Memo No. 626 dated 17.04.2018 issued by the Registrar of the University. The notification specified that the approval was subject to verification of certificates and any legal objections by the State Government, with salary to be disbursed upon receipt of grant funds from the State Government.

On 03.09.2019, the Governing Body of the College formally confirmed the petitioners' services. Due to non-payment of salary for want of fund allocation by the State Government, Petitioner No. 1 preferred C.W.J.C. No. 19632 of 2019, which was disposed of by this Court on 24.09.2019 with a direction to the State Government to take an appropriate decision regarding the allotment of funds to the University within 60 days.

17. However, instead of releasing funds, the Director, Higher

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Education, Education Department, Bihar, Patna, passed orders dated 21.04.2022 (Memo No. 923), rejecting the University's recommendation and approval of the petitioners' appointments on the ground that prior approval/sanction of the State Government had not been obtained under Section 35(2) of the Bihar State Universities Act, 1976 before making the appointments. Consequent upon the State's rejection order, the Registrar of the University issued letters dated 16.06.2022, instructing the Secretary/Principal of the College to cancel the University's prior approval and terminate the services of the petitioners.

Submissions on behalf of the Petitioners

18. Learned counsel for the petitioners submits that the petitioners were appointed against duly sanctioned, vacant teaching and non-teaching posts at the College following an open selection procedure conducted in strict compliance with Section 57(A) and Section 57(B) of the Bihar State Universities Act, 1976, and the Statutes framed thereunder. It was submitted that the selection was made by a Selection Committee which included experts nominated and approved by the Vice Chancellor of the University vide letter dated 13.03.2013.

19. Learned counsel further submitted that the posts in question were already created and sanctioned by the State Government by virtue of the general resolution dated 18.10.1976, applicable to all affiliated Sanskrit colleges in Bihar, and therefore, no separate prior sanction or creation of post under Section 35 of the Act was required for filling up established sanctioned vacancies.

20. Learned counsel contended that Section 35 of the Act

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empowers the State Government to interfere only if posts are created without prior sanction, but the State has no authority to cancel appointments made against already sanctioned posts through a validly constituted Selection Committee and approved by the statutory bodies (Approval Committee and Syndicate) of the University.

21. Finally, learned counsel urged that the petitioners have been continuously rendering their service since July 2013, their names were duly included in the University's budget for 2022-23, and the abrupt decision of the respondents directing termination of their services without proper appreciation of statutory provisions is highly arbitrary, discriminatory, and violative of Articles 14, 16, and 21 of the Constitution of India.

Submissions on behalf of the State-Respondents

22. It has been submitted that under Section 35(1) and Section 35(2) of the Bihar State Universities Act, 1976, no college (other than those established/maintained by the Government or minority institutions) can create posts or appoint any person on any post without the prior approval of the State Government. Learned counsel asserts that even if appointments are made against sanctioned posts, obtaining prior approval of the State Government under Section 35(2) is mandatory before making permanent appointments or incurring financial liabilities upon the State exchequer.

23. It was further contended that the University's approval granted vide notification dated 17.04.2018, was explicitly conditional upon legal verification by the State Government. Since the

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appointments were made in violation of Section 35(2), the appointments are invalid under Section 35(3) of the Act.

Submissions on behalf of the Respondent-University

24. Learned counsel appearing on behalf of the Kameshwar Singh Darbhanga Sanskrit University (Respondent Nos. 3 to 5) submitted that Juthalal Sanskrit College, Majhaulia, is an affiliated college receiving deficit grant-in-aid.

25. It was submitted that following the selection process conducted by the College, the cases of the petitioners were placed before the Approval, Seniority and Pay Fixation Committee, and subsequently approved by the Syndicate of the University in its meeting on 24.03.2018. Consequently, Notification Memo No. 626 dated 17.04.2018, was issued approving their services from their respective dates of joining.

26. It was further submitted that when the matter was placed before the Education Department in light of directions given in C.W.J.C. No. 19632 of 2019, the Director, Higher Education, vide order dated 21.04.2022, declined approval on the ground of non-compliance with Section 35(2) of the Bihar State Universities Act, 1976 and directed termination. Since the primary employer is the Governing Body of the College and the State Government refused to allot funds due to lack of prior sanction, the University was constrained to issue letter dated 16.06.2022, withdrawing its approval and directing the Governing Body of the College to take steps for terminating the petitioners' services in compliance with the State Government's

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directives.

Avinash Kishor v. The State of Bihar & Ors. (Civil Writ Jurisdiction Case No. 17862 of 2022)

27. The instant writ application has been filed by the petitioner seeking inter alia for the following reliefs:

i. *For quashing the order dated 21/04/2022 bearing memo no. 924 issued by the Director, Higher Education, Education Department, Bihar, Patna, by which the recommendation for grant of approval to the appointment of the petitioner against the post of Graduate Teacher at Hathua Raj Gyanoday Sanskrit Upshastri College, Mandiri, Patna has been turned down on the ground that prior approval of the State Government was not obtained, and directing the University to take necessary action for terminating the services of the petitioner.*
ii. *For quashing the letter dated 16/06/2022 bearing memo no. 530 issued by the Registrar of the University, directing the Secretary/Principal of the College to terminate the services of the petitioner in furtherance of the State Government's order.*
iii. *For directing the respondent authorities under the University and the Education Department to pay regular salary along with arrears and consequential benefits from the date of initial appointment and joining (i.e. on 01/07/2013).*
iv. *Any other order or orders that the Court may deem fit and proper in the interest of justice.*

Facts of the Case

28. Brief facts emerging from the pleadings submitted by the parties in C.W.J.C. No. 17862 of 2022 are that, by a resolution dated

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18/10/1976, issued by the Education Department, 10 sanctioned posts of teachers were provided for non-government Sanskrit educational institutions, including teachers for English, Hindi, Sanskrit, and modern subjects. Hathua Raj Gyanoday Sanskrit Upshastri College, Mandiri, Patna is a permanently affiliated up-shastri level college under Kameshwar Singh Darbhanga Sanskrit University, getting the privilege of deficit grant-in-aid.

29. As one post of Assistant Teacher reserved for the EBC category and one post of Clerk were vacant, the governing body of the College in its meeting held on 26/05/2013 decided to advertise the post of Graduate Teacher (EBC category) and a clerk post. An advertisement was published on 30/05/2013 inviting applications. The petitioner, possessing the requisite qualifications, applied for the post of Graduate Teacher under the EBC category.

30. Following an interview conducted by the selection committee on 24/06/2013, the petitioner secured the highest marks and was placed at serial no. 1 in the merit list. The governing body of the College in its meeting on 25/06/2013 approved the recommendation and appointed the petitioner as a Graduate Teacher. The petitioner submitted his joining report on 01/07/2013, which was accepted, and he began continuously discharging his duties.

31. The matter of the petitioner's appointment was placed before the Approval, Seniority and Pay Fixation Committee of the University, which approved the appointment during its meetings held in October 2017, notified vide notification dated 19/04/2018 (Memo No. 653). As

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salary was not disbursed, the petitioner earlier approached this Court in C.W.J.C. No. 18861/2019, which was disposed of on 13/09/2019 directing the Director, Higher Education to take an appropriate decision regarding fund allotment.

32. Instead of releasing funds, Respondent No. 2 issued the impugned order dated 21/04/2022 (Memo No. 924) rejecting the approval on the ground of lack of prior approval from the State Government under Section 35(2) of the Bihar State Universities Act, 1976, and directed termination of the petitioner's service. Pursuant thereto, the University issued the consequential letter dated 16/06/2022 (Memo No. 530).

Submissions on behalf of the Petitioner

33. Learned counsel for the petitioner submits that the action of the Director, Higher Education in passing the impugned order dated 21/04/2022, is completely misconceived as Section 35(2) of the Bihar State Universities Act, 1976, has already been read down by a Full Bench decision rendered by this Court in ***Braj Kishore Singh v. The State of Bihar [1997 (1) PLJR 509]***. It has been argued that the petitioner participated in a regular and a transparent selection process against a sanctioned vacancy, was duly selected by the selection committee, and his appointment was approved by the University vide notification dated 19/04/2018.

34. Learned counsel contended that the petitioner has continuously discharged his duties since 01/07/2013 without any break, and denying salary or terminating his services after more than nine

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years of unblemished service is arbitrary, unreasonable, and violative of Articles 14, 16, 21, and 23 of the Constitution of India.

Submissions on behalf of the State-Respondents

35. Per contra, learned counsel appearing for the State-respondents submitted that Hathua Raj Gyanodya Sanskrit Upshastri College is an affiliated college receiving deficit grant-in-aid.

The State respondents submits that the governing body of the College appointed the petitioner without obtaining prior approval from the State Government. Therefore, the proposal for grant of approval was rightly turned down by the Director, Higher Education vide order dated 21/04/2022, and the University was correctly directed to terminate the petitioner's service.

Submissions on behalf of the University

36. Learned counsel representing the Kameshwar Singh Darbhanga Sanskrit University submitted that the University had initially granted approval to the petitioner's appointment in October 2017 subject to conditions, including that approval would automatically stand cancelled if the State Government raises any objection and that salary disbursement was contingent upon receipt of grants from the State.

37. Consequently, in compliance with the State Government's directive, the University cancelled its approval and directed the Secretary / Principal of the College to terminate the services of the petitioner vide letter dated 16.06.2022.

Prabha Shankar Pramod vs. The State of Bihar & Ors. (Civil Writ

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Jurisdiction Case No. 3121 of 2023)

38. Heard learned counsel for the petitioner, learned counsel representing the State-respondents, and learned counsel representing the Kameshwar Singh Darbhanga Sanskrit University.

The instant writ application has been filed by the petitioner seeking interalia for the following reliefs:

> ***i.*** *Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the impugned letter dated 20/06/2022 bearing Memo No. 558 issued by the concerned authorities under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred to as "the University"), by which the Secretary/Principal, Rudra Sanskrit Upshastri College, Hulas, Supaul (hereinafter referred to as "the College") has been directed to terminate the services of the petitioner in the light of the directions contained under the order dated 21/04/2022 bearing Memo No. 910 issued by the Director, Higher Education, Education Department of the State Government;*
>
> ***ii.*** *Issuance of a direction, order or writ, including writ in the nature of certiorari quashing the order dated 21/04/2022 bearing Memo No. 910 passed by the Director, Higher Education, Education Department of the State Government, by which while recording disagreement with the recommendation/request of the University for approval of services of the petitioner against the post of Graduate Teacher at the College, the University has been directed to take steps towards terminating the services of the petitioner and inform the department in the said respect;*
>
> **iii.** *Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the University as well as the Education Department of the State Government and the*

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concerned respondent authorities under the College to allow the petitioner to continue in the capacity of Graduate Teacher at the College along with all consequential benefits and accordingly, direct them to take steps towards making payment of regular salary along with arrears of salary and other benefits as he may be found to be entitled to in the facts and circumstances of the present case;

iv. *Any other relief that the petitioner may be found to be entitled to in the facts and circumstances of the present case.*

Facts of the Case

39. Brief facts emerging from the pleadings submitted by the parties in the case of C.W.J.C. No. 3121 of 2023 are that by a resolution dated 18/10/1976 issued by the Education Department, State of Bihar, 10 sanctioned teaching posts (including 1 Principal, 6 Lecturers in Sanskrit subjects, and 4 teachers in modern/other subjects) and 4 non-teaching posts were sanctioned for non-government Sanskrit educational institutions across the State. Rudra Sanskrit Upshastri College, Hulas, Supaul is a permanently affiliated college under the Kameshwar Singh Darbhanga Sanskrit University and enjoys the status of a full-deficit grant college.

40. In September 2012, an advertisement was published by the College inviting applications for various teaching and non-teaching posts, including 3 posts of Graduate Teachers (2 for General and 1 for EBC/Backward category). The petitioner, fulfilling the prescribed eligibility criteria, applied for the post of Graduate Teacher. Pursuant to an interview letter dated 18/10/2012 (Memo No. 109/2012), he appeared before the Selection Committee on 26/10/2012. On the

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recommendation of the Selection Committee and approval of the Governing Body on 28/10/2012, the Secretary of the College issued an appointment letter dated 29/10/2012 (Memo No. 138/2012) appointing the petitioner against the second post of Graduate Teacher (Geography) under the EBC category. The petitioner submitted his joining on 08/11/2012, which was duly accepted.

41. On 17/03/2017, the Approval, Seniority and Pay Fixation Committee of the University approved the appointment of the petitioner w.e.f. his date of joining. Thereafter, the Syndicate of the University, in its meeting dated 03/04/2017, granted statutory approval to the petitioner's appointment. Consequently, the University issued an office order dated 05/02/2018 (Memo No. 260) approving his services subject to the condition that the Governing Body of the College would obtain post-facto approval from the State Government.

42. Despite continuing in service, the payment of salary to the petitioner was not disbursed. Aggrieved thereby, the petitioner approached this Court in C.W.J.C. No. 17153 of 2019. By an order dated 23/08/2019, the writ petition was disposed of directing the State Government to take an appropriate decision regarding the allotment of funds to the University and requiring the Director, Higher Education to do the needful within 60 days.

43. Subsequent to the court's order, the Director, Higher Education, Education Department, Bihar, Patna, passed the impugned order dated 21/04/2022 (Memo No. 910), disagreeing with the University's recommendation for approval of the petitioner's

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appointment on the ground that prior approval of the State Government under Section 35(2) of the Bihar State Universities Act, 1976 had not been obtained prior to making the appointment, and directed the University to take steps for terminating his services. Pursuant thereto, the Registrar of the University issued the impugned letter dated 20/06/2022 (Memo No. 558) directing the Governing Body of the College to terminate the services of the petitioner.

Submissions on behalf of the Petitioner

44. Learned counsel for the petitioner submitted that the petitioner was appointed against a sanctioned vacant post of Graduate Teacher (Geography) following a full-fledged selection process in accordance with the resolution dated 18/10/1976 and the provisions of the Bihar State Universities Act, 1976 and statutes framed thereunder. It was submitted that the statutory Approval, Seniority and Pay Fixation Committee as well as the Syndicate of the University had duly approved the petitioner's appointment with effect from his date of joining.

45. It was further submitted that the action of the State Government and the University in cancelling his appointment and directing termination, instead of releasing funds pursuant to the directions in C.W.J.C. No. 17153 of 2019, is highly arbitrary, unreasonable, and violative of Articles 14, 16, and 21 of the Constitution of India.

Submissions on behalf of the State

46. Per contra, learned counsel appearing for the State-respondents submitted that Rudra Sanskrit Upshastri College, Hulas,

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Supaul is an affiliated college receiving deficit grant-in-aid. It was submitted that pursuant to the order dated 23/08/2019 passed in C.W.J.C. No. 17153 of 2019, the matter was examined by the Department in consultation with the University on 28.06.2021. Upon examination of the report, it was revealed that the appointment of the petitioner was made by the college management without obtaining prior approval of the State Government as mandated by law.

47. Therefore, it is stated and submitted that the State Government rightly passed the order dated 21/04/2022 (Memo No. 910), recording disagreement with the recommendation of the University and directing termination of the irregular appointment.

Submissions on behalf of the University

48. Learned counsel for the Respondent-University submits that the petitioner's initial appointment was made by the Governing Body of the College following an advertisement issued in September 2012. The University's Approval, Seniority and Pay Fixation Committee on 17/03/2017 and the Syndicate on 03/04/2017 approved the service of the petitioner.

49. However, it was pointed out that the office order dated 05/02/2018 (Memo No. 260) explicitly stipulated that the approval was conditional upon the Governing Body obtaining post-facto approval from the State Government, failing which the approval granted by the University would automatically stand cancelled.

50. It was submitted that when the Education Department rejected the proposal vide order dated 21/04/2022 (Memo No. 910) for

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non-compliance with Section 35(2) of the Bihar State Universities Act, 1976 and directed steps for termination, the University, being bound by the State's directive and the terms of its own conditional approval order, issued letter dated 20/06/2022 (Memo No. 558) directing the Governing Body of the College to comply with the Department's order.

Minu Mishra & Others Versus **The State of Bihar & Others (C.W.J.C. No. 3415 of 2023)**

51. By way of this writ petition (C.W.J.C. No. 3415 of 2023) and the accompanying Interlocutory Application (I.A. No. 1 of 2026), the petitioners herein, have sought for the following reliefs:

(a) For quashing the orders dated 21.04.2022, passed by the Director, Higher Education, Education Department, Bihar, Patna, whereby the recommendation made by the University for appointment of the petitioners in the services of the College has been disapproved and directions have been issued to terminate their services.

(b) For quashing of the consequential letters dated 16.06.2022, issued by the University directing the Secretary/Principal of the College to execute the termination of the petitioners.

(c) For quashing of the subsequent Office Order contained in Memo No. 8971 dated 02.09.2026, issued by the Registrar of the University, whereby the appointment of Petitioner No. 1 as Principal was treated as invalid and additional charge was handed over to another individual.

(d) For directing the respondent authorities under the College, University, and the State Government to

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allow the petitioners to continue against their respective posts strictly in accordance with law.

(e) For declaring that the petitioners are lawfully entitled to continue in the services of the College against their respective posts with all consequential benefits under the Bihar State Universities Act, 1976, and the Statutes framed thereunder.

(f) For directing the respondents to take steps for the immediate payment of current salaries along with arrears of salary and all other consequential monetary benefits arising out from their appointments.

(g) For granting stay to the operation and implementation of the impugned orders dated 21.04.2022, the University letters dated 16.06.2022, and the subsequent Office Order dated 02.09.2026 during the pendency of the writ petition.

Facts of the Case

52. Brief facts emerging from the pleadings submitted by the respective parties in C.W.J.C. No. 3415 of 2023, are that Shree Harihar Sanskrit Mahavidyalaya, Bakulharmath, Chanpatiya, West Champaran (hereinafter referred to as "the College") is a permanently affiliated college under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, enjoying the status of a fully deficit grant-in-aid educational institution. Pursuant to a resolution dated 18.10.1976, issued by the Education Department of the State Government, altogether 10 posts of teachers (including 1 post of Principal and 6 posts of Lecturers in different Sanskrit subjects) and 4 posts of non-teaching employees (including Clerk, Typist, Peon, and Night Guard) were made to be sanctioned in favour of such Sanskrit colleges/institutions within the

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State.

53. In accordance with the provisions as contained under the Bihar State Universities Act, 1976, and the relevant statutes, an advertisement dated 23.02.2013, was published by the College inviting applications for appointment to various sanctioned posts, including the post of Principal, Typist, and Night Guard. The petitioners—Petitioner No. 1 (Minu Mishra) for the post of Principal, Petitioner No. 2 (Shri Kesh Chaturvedi) for the post of Night Guard, and Petitioner No. 3 (Raj Kishore Kumar) for the post of Typist—applied, participated in the selection process conducted by the duly constituted selection committee, and were recommended for appointment on 30.06.2013. The Governing Body of the College, in its meeting dated 02.07.2013, approved and ratified the selections, following which appointment letters dated 04.07.2013 were issued in their favour, and the petitioners submitted their joining, which was duly accepted.

54. Subsequently, during the meetings held in October 2017 and March 2018, the statutory Approval, Seniority and Pay Fixation Committee of the University considered the appointments and granted approval, which was duly notified vide Memo No. 626 dated 17.04.2018. Furthermore, the services of the petitioners were formally confirmed by resolutions of the Governing Body of the College on 26.08.2019 and 25.10.2019.

55. As salary was not being disbursed due to non-release of funds by the State Government, the petitioners approached this Court

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through various writ petitions (including C.W.J.C. No. 18980 of 2019 and C.W.J.C. No. 19817 of 2019), wherein the coordinate Bench of this Court, directed the Director, Higher Education, to take appropriate decisions regarding fund allocation. However, instead of allocating funds, the Director, Higher Education, Education Department, Bihar, Patna, passed the impugned orders dated 21.04.2022 (Annexure-16 Series) disapproving the recommendation of the University on the sole ground that prior approval of the State Government under Section 35(2) of the Bihar State Universities Act, 1976, had not been obtained prior to the appointment made of the concerned petitioners, and directed the University to terminate the services of the petitioners. In furtherance thereof, the University issued letters dated 16.06.2022, directing the College authorities to take steps toward terminating the petitioners' services.

56. During the pendency of the writ petition, the University further issued an Office Order contained in Memo No. 8971 dated 02.09.2026, treating the appointment of Petitioner No. 1 as invalid and handing over the additional charge of the Principal of the College to another individual, which has been challenged by the petitioners via Interlocutory Application (I.A. No. 1 of 2026).

Submissions on behalf of the Petitioners

57. Learned counsel for the petitioners submits that the appointments of the petitioners were made strictly in accordance with the provisions contained under section 57A of the Bihar State

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Universities Act, 1976, and the Statutes framed thereunder, against duly sanctioned posts admissible to a full deficit grant college. It has been contended that the ground for rejection relying upon Section 35(2) of the Act is completely untenable in view of the full bench judgment of this Court in ***Braj Kishore Singh v. The State of Bihar reported in 1997 (1) PLJR 509***, wherein Section 35(2) has been read down.

58. It has been further argued that the University's action in issuing termination instructions under the dictates of the State Government reflects an abdication of statutory responsibility. Learned counsel emphasized that the services of the petitioners were duly approved by the University's statutory committee and confirmed by the Governing Body of the College, and that withholding salary and issuing termination orders after such a protracted period is arbitrary, unreasonable, and violative of Articles 14, 16, and 21 of the Constitution of India.

Submissions on behalf of the State

59. The State Counsel submits that when the matter was examined pursuant to the directions of this Court, it was discovered that the appointments of the petitioners were made without obtaining prior approval from the State Government as contemplated under Section 35(2) of the Act. Consequently, the Director, Higher Education, committed no illegality in passing the orders dated 21.04.2022, disapproving the appointments and directing appropriate steps, as the statutory mandate of Section 35(2) was ignored at the time of initial engagement.

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Submissions on behalf of the University

60. Learned counsel representing Kameshwar Singh Darbhanga Sanskrit University submits that the College is an affiliated institution of the University. It is stated that after the selection process in 2013, and subsequent review by the statutory Approval, Seniority and Pay Fixation Committee in 2017–2018, the University had granted approval to the petitioners' services subject to certain conditions, including compliance and agreement by the State Government. Since the Education Department refused to release grants for the payment of salary and issued explicit directions under Section 35(2) of the Act recording disagreement, the University was constrained to withdraw its conditional approval vide letters dated 16.06.2022.

Ashutosh Dwivedi Versus The State of Bihar (Civil Writ Jurisdiction Case No. 6256 of 2023)

61. The present writ application has been filed by the petitioner seeking inter-alia the following reliefs:

i. *Issuance of an appropriate writ in the nature of certiorari for quashing the order bearing Memo No. 919 dated 21.04.2022, issued under the signature of the Director, Higher Education, Department of Education, Government of Bihar (Respondent No. 3), whereby the consent/approval of the State Government on the appointment of the petitioner to the post of Graduate Teacher (Snatak Shikshak) in Janki Sanskrit Upshashtri College, Narkatiyaganj, West Champaran was refused on the ground that the appointment was made in violation of Section 35(2) of the Bihar State Universities Act, 1976, along with a direction to the University to take all necessary steps for cancelling the appointment of the*

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petitioner and inform the Department;

ii. *Issuance of a direction upon the respondents to grant all consequential service and financial benefits to the petitioner, including release of current and arrears of salary from the date of initial joining;*

iii. *Any other relief or reliefs to which the petitioner is entitled in the eye of law and in the facts and circumstances of the case.*

Facts of the Case

62. Brief facts emerging from the pleadings submitted by the parties in C.W.J.C. No. 6256 of 2023 are that Janki Sanskrit Upshashtri College, Narkatiyaganj, West Champaran, a permanently affiliated college receiving grant-in-aid/deficit aid from the State Government issued an advertisement in daily newspapers on 02.06.2007, inviting applications from eligible candidates for appointment against teaching posts, including one vacant, sanctioned post of Graduate Teacher (Snatak Shikshak) within the prescribed staffing pattern.

63. The petitioner submitted his application fulfilling all eligibility criteria and appeared before the statutory Selection Committee/Interview Board on 05.11.2008 pursuant to an interview letter dated 29.09.2008. Upon completion of the selection process, the Selection Committee recommended the name of the petitioner on merit to the Governing Body of the College. The Governing Body accepted the recommendation and issued an appointment letter vide letter dated 06.11.2008. The petitioner submitted his joining report on 08.11.2008, which was duly accepted, and he has been continuously discharging his duties without complaint ever since.

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64. The Governing Body requested the University for formal approval of the petitioner's appointment vide letter dated 10.10.2014. The Approval, Seniority, and Pay Fixation Committee of Kameshwar Singh Darbhanga Sanskrit University examined the record and approved the services of the petitioner in its meeting on 24.03.2018. Consequently, the Syndicate of the University confirmed the decision, and the Registrar issued a formal notification bearing Memo No. 653 dated 19.04.2018 approving the petitioner’s appointment on the post of Graduate Teacher with effect from his initial date of joining (08.11.2008).

65. Due to the non-release of salary, the petitioner previously approached this Court in C.W.J.C. No. 14236 of 2014. The writ application was disposed of on 18.08.2018 with a direction to the State-respondents to take an appropriate decision on the University’s approval notification dated 19.04.2018 within 60 days and release the consequential salary benefits accordingly. The University subsequently prepared budget estimates and repeatedly requested the State Government for fund allocation vide letters dated 07.02.2019, 19.06.2021, and 26.06.2021.

66. Despite the University confirming that the appointment was made against a sanctioned post following due selection procedures, the Director, Higher Education, Department of Education, Government of Bihar issued the impugned order dated 21.04.2022 (Memo No. 919). The State refused its consent on the sole ground that prior approval of the State Government under Section 35(2) of the Bihar State

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Universities Act, 1976 had not been obtained prior to appointment, and directed the University to take steps for cancellation of the petitioner's appointment. Pursuant thereto, the Registrar of the University issued letter No. 539 dated 16.06.2022 directing the Governing Body to execute the State's directive.

Submissions on Behalf of the Petitioner

67. Learned counsel for the petitioner submitted that the petitioner was appointed on a vacant and sanctioned post within the staffing pattern laid down under the Resolution of the State Government dated 18.10.1976, following open advertisement and selection by a duly constituted statutory committee. It was submitted that Section 35(2) of the Bihar State Universities Act, 1976 does not apply to appointments made against sanctioned strength/posts, and the impugned order is in direct violation of the Full Bench decision of this Court in ***Braj Kishore Singh v. State of Bihar [1997(1) PLJR 509]***. Learned counsel contended that once the service approval was granted by the statutory Approval-Seniority and Pay Fixation Committee and approved by the Syndicate of the University, the State Government has no jurisdiction to question the legality of the appointment at the stage of releasing salary grants. It was further urged that the State Government has continuously released salary grants for other employees of affiliated Sanskrit colleges appointed in an identical manner on vacant sanctioned posts without prior approval under Section 35(2), making the single out of the petitioner arbitrary, discriminatory, and violative of Articles 14 and 16 of the Constitution of India. Lastly, it was submitted that the impugned

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order was passed in violation of the principles of natural justice without providing any opportunity of hearing to the petitioner.

Submissions on behalf of the State

68. Per contra, learned counsel appearing for the State-respondents submitted that Janki Sanskrit Upshastri College, Narkatiyaganj, West Champaran is an affiliated college receiving the privilege of deficit grant-in-aid. It is contended on behalf of the State that Section 35(2) of the Bihar State Universities Act, 1976 explicitly mandates that no college, other than those established or maintained by the State Government or religious/linguistic minorities, shall appoint any person to any teaching or non-teaching post without obtaining the prior approval of the State Government. It is further submitted on behalf of the respondents; the Education Department examined the report and documents submitted by the University and found that the appointment of the petitioner was made without obtaining the prior approval of the State Government as contemplated under Section 35(2) of the Act. Therefore, the State Government rightly disapproved the request of the University vide Memo No. 919 dated 21.04.2022.

Submissions on behalf of the University

69. Learned counsel appearing for the respondent-University submitted that Janki Sanskrit Up-Shastri College, Narkatiyaganj is an affiliated Up-Shastri college of Kameshwar Singh Darbhanga Sanskrit University. It was submitted that the Approval, Seniority and Pay Fixation Committee of the University in its meeting on 24.03.2018 considered and approved the service of the petitioner, but such approval

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was subject to the condition that if any objection was raised by the State Government, the approval would automatically stand cancelled. The State Government recorded its disagreement vide Memo No. 919 dated 21.04.2022 due to non-compliance with Section 35(2) of the Act and directed steps to be taken for termination. Consequently, the University cancelled its approval and directed the Governing Body of the College vide letter No. 539 dated 16.06.2022 to comply with the directives of the State Government.

Manoj vs. The State of Bihar & Others (Civil Writ Jurisdiction Case No. 16405 of 2023)

70. The instant writ application has been filed by the petitioner seeking inter alia the following reliefs:

i. *Issuance of an appropriate writ in the nature of certiorari or any other writ, order, or direction for setting aside the order issued by the Education Department, Government of Bihar, Patna, contained in Memo No. 913 dated 21.04.2022, under the signature of the Director, Higher Education, whereby the proposal sent by Kameshwar Singh Darbhanga Sanskrit University for concurrence to the appointment of the petitioner dated 29.10.2012 as a Graduate Teacher made by the Governing Body of Rudra Sanskrit Up-Shastri College, Hullash, Supaul, has been rejected on the purported ground of non-compliance with the provisions of Section 35(2) of the Bihar State Universities Act, 1976;*

ii. *Issuance of an appropriate writ for setting aside the letter/order contained in Memo No. 521 dated 16.06.2022, issued under the signature of the Registrar of the respondent-University, whereby the*

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Secretary/Principal of the said College was directed to take steps for termination of the services of the petitioner in light of the order of the State Government;

iii. *Issuance of an appropriate writ for quashing all consequential letters, communications, and directions issued in pursuance thereof;*

iv. *A declaration that the appointment of the petitioner to the post of Graduate Teacher in the said College was made after following due process of law against a sanctioned post, and is fully valid, legal, and subsisting;*

v. *A direction upon the respondent authorities to allow the petitioner to continue in service on his respective post and to release his arrears of salary as well as current regular salary along with all consequential service benefits;*

vi. *Any other order or orders that this Hon'ble Court may deem fit and proper in the interest of justice.*

Facts of the Case

71. Brief facts emerging from the pleadings submitted by the parties in C.W.J.C. No. 16405 of 2023 are that Rudra Sanskrit Up-Shastri College, Hullash, Supaul (hereinafter referred to as the 'College'), is a permanently affiliated institution under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (hereinafter referred to as the 'University'), and is a deficit grant-in-aid college. By virtue of Government Resolution dated 18.10.1976 issued by the Education Department, Government of Bihar, staffing patterns and sanctioned posts were prescribed for non-government Sanskrit educational institutions, comprising 10 sanctioned teaching posts (including 1 Principal, 6 Lecturers in Sanskrit subjects, and 4 Teachers in English,

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Hindi, Sanskrit, and Modern Science) and 4 non-teaching posts (1 Clerk, 1 Typist, 1 Peon, and 1 Night Guard), which applied directly to the affiliated college.

72. On 26.09.2012, an open advertisement was published by the College in the daily newspaper, inviting applications from eligible candidates for regular selection and appointment against sanctioned vacant teaching posts, including the post of Graduate Teacher. The petitioner, possessing all requisite qualifications, submitted his application pursuant to the advertisement. A Selection Committee comprising university subject experts approved by the Vice-Chancellor in terms of the statutory provisions under Section 57(A) and Section 57(B) of the Bihar State Universities Act, 1976 conducted interviews on 26.10.2012. The Selection Committee recommended the name of the petitioner along with another candidate for appointment to the post of Graduate Teacher.

73. The Governing Body of the College accepted the recommendation of the Selection Committee in its meeting dated 28.10.2012 and issued formal appointment letter bearing Memo No. 135/12 dated 29.10.2012. Pursuant thereto, the petitioner submitted his joining report on 05.11.2012, which was accepted by the college authorities, and the petitioner continuously discharged his teaching duties thereafter.

74. The College subsequently transmitted the complete appointment records to the University for formal grant of approval/concurrence vide letter dated 22.01.2017. The Approval,

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Seniority, and Pay Fixation Committee of the University evaluated the matter on 24.03.2018, and the University accorded formal concurrence/approval to the petitioner's appointment along with other teachers vide notification bearing Memo No. 653 dated 19.04.2018.

As salary funds were not released by the State, the petitioner, along with other aggrieved teachers, approached this Hon'ble Court in **C.W.J.C. No. 18977 of 2019 (*Santosh Kumar & Ors. v. The State of Bihar & Ors.*).** The said writ petition was disposed of by order dated 16.09.2019 with a specific direction to the Director, Higher Education, Government of Bihar, to take an expeditious decision regarding the allocation and release of requisite funds to the University for payment of salaries to the teachers within a maximum period of 60 days.

75. Instead of releasing the allocated grant, the Director, Higher Education, Education Department, Government of Bihar, passed the impugned order contained in Memo No. 913 dated 21.04.2022, rejecting the proposal for concurrence to the petitioner's appointment on the ground that prior approval/permission of the State Government had not been obtained under Section 35(2) of the Bihar State Universities Act, 1976. In compliance with the State Government's rejection order, the respondent-University issued consequential Memo No. 521 dated 16.06.2022, directing the Governing Body of the College to take steps for the termination of the service of the petitioner. A joint representation dated 24.07.2022, submitted by the petitioner and similarly situated employees before the State authorities yielded no redress, compelling the petitioner to invoke the extraordinary writ jurisdiction of this Court

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on 17.10.2023.

Submissions on behalf of the Petitioner

76. Learned counsel appearing for the petitioner submitted that the impugned order dated 21.04.2022 passed by the Director, Higher Education, and the consequential order of the University dated 16.06.2022 are wholly arbitrary, illegal, and without jurisdiction. It has been contended that the petitioner was appointed pursuant to an open public advertisement published in a widely circulated newspaper, through a statutory Selection Committee duly constituted with University experts approved by the Vice-Chancellor under Sections 57(A) and 57(B) of the Act. The post in question is a sanctioned post flowing from the statutory staffing pattern laid down in Government Resolution dated 18.10.1976.

77. Learned counsel argued that the reliance placed by the State authorities on Section 35(2) of the Bihar State Universities Act, 1976, is completely misconceived. The bar under Section 35 operates against the creation of new posts involving financial liabilities without State sanction, or appointments made against unsanctioned posts, and cannot be invoked to invalidate appointments made against pre-existing, sanctioned vacancies within the approved staffing pattern. It was further urged that after having worked continuously pursuant to a valid selection and University concurrence granted under Memo No. 653 dated 19.04.2018, issuing a directive for termination without any show-cause notice or opportunity of hearing is in blatant violation of the principles of natural justice and Articles 14, 16, and 21 of the

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Constitution of India.

Submissions on behalf of the State

78. Learned counsel submitted that Section 35(2) of the Bihar State Universities Act, 1976, contains an express non-obstante clause mandating that no affiliated college shall appoint any person on any post without the prior approval of the State Government. It is an admitted position that no prior permission or sanction was sought or obtained from the State Government prior to initiating the recruitment process or appointing the petitioner on 29.10.2012. Referring to Section 35(3) of the Act, Learned counsel submitted that any appointment made contrary to the provisions of the Act or in an unauthorized manner is invalid ab initio and liable to be terminated at any time. It was further pointed out that there is ambiguity in the petitioner's claim regarding whether his appointment was as a Graduate Teacher or a Post-Graduate Teacher. Hence, the Director, Higher Education, acted strictly within the four corners of law in declining concurrence under Memo No. 913 dated 21.04.2022, and no illegality attaches to the consequential directives.

Submissions on behalf of the Respondent-University

79. Learned counsel appearing for the Kameshwar Singh Darbhanga Sanskrit University submitted that the Governing Body of the College conducted the selection process and issued the appointment letter dated 29.10.2012. While the University's Approval, Seniority, and Pay Fixation Committee granted conditional concurrence vide Memo No. 653 dated 19.04.2018, such approval was explicitly subject to

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concurrence and release of grants-in-aid by the State Government.

80. It was submitted that once the Director, Higher Education, upon examining the claim pursuant to the order passed in C.W.J.C. No. 18977 of 2019, categorically rejected the proposal on the ground of non-compliance with Section 35(2) of the Act, the University had no option but to recall/cancel its conditional approval and issue Memo No. 521 dated 16.06.2022 directing the College to take consequential steps in conformity with the State Government's order.

Santosh Kumar versus The State of Bihar & Others (Civil Writ Jurisdiction Case No. 16447 of 2023)

81. By way of this writ application, the petitioner prays for the issuance of appropriate writs, orders, or directions for granting the following reliefs:

i. *Setting aside the order issued by the Education Department, Government of Bihar, Patna, contained in Memo No. 912 dated 21.04.2022 under the signature of the Director, Higher Education, whereby the proposal sent by Kameshwar Singh Darbhanga Sanskrit University for concurrence to the appointment of the petitioner (dated 29.10.2012), as a Graduate Teacher at Rudra Sanskrit Up-Shastri College, Hullash, Supaul, was rejected on the ground that prior permission under Section 35(2) of the Bihar State Universities Act, 1976, was not followed.*

ii. *Setting aside the letter contained in Memo No. 560 dated 20.06.2022, issued under the signature of the Registrar of the University, directing the Secretary/Principal of the college to take appropriate steps for the termination of the petitioner's service in*

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light of the State Government's order.

iii. *Setting aside all consequential letters issued in compliance with the aforementioned direction of the Education Department.*

iv. *Declaring that the order issued by the Education Department, Government of Bihar, Patna, is arbitrary, unreasonable, and in violation of the principles of natural justice.*

v. *Directing the respondent authorities to allow the petitioner to continue on his respective post and service.*

vi. *Declaring that the appointment of the petitioner on the post of Graduate Teacher in the college has been made after following due process of law and is thus valid, legal, and in accordance with law.*

vii. *Granting any other relief or reliefs to which the petitioner is found entitled under the facts and circumstances of the case.*

Facts of the Case

82. Brief facts emerging from the pleadings and records submitted by the parties in C.W.J.C. No. 16447 of 2023 are that the petitioner, Santosh Kumar, applied for appointment to the post of Graduate Teacher in response to an advertisement published on 26.09.2012, by the governing body of Rudra Sanskrit Up-Shastri College, Hullash, Supaul, which is a permanently affiliated college under Kameshwar Singh Darbhanga Sanskrit University. Following an interview conducted by the Selection Committee on 26.10.2012, the petitioner was placed in the first position of the merit list and recommended for appointment. The governing

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body of the college issued an appointment letter (Memo No. 137/12) dated 29.10.2012, and the petitioner submitted his joining on 05.11.2012, which was duly accepted.

83. Subsequently, the college forwarded the proposal for approval of the petitioner's appointment to the University on 22.01.2017. The University, through a notification bearing Memo No. 653 dated 19.04.2018, granted concurrence/approval to the appointment of the petitioner along with other teachers. When salary disbursements were withheld, the petitioner previously approached this Court by filing C.W.J.C. No. 18977 of 2019, which was disposed of on 16.09.2019 with a direction to the State authorities to take an appropriate decision regarding the allotment of funds to the University for salary payments.

84. However, instead of allocating funds, the Director, Higher Education (Government of Bihar), issued the impugned order vide Memo No. 912 dated 21.04.2022, rejecting the proposal for concurrence on the ground that prior approval from the State Government was not obtained in terms of Section 35(2) of the Bihar State Universities Act, 1976, and directed the University to take immediate steps for the termination of the petitioner's service. In compliance thereof, the Registrar of the University issued Memo No. 560 dated 20.06.2022, directing

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the Secretary/Principal of the college to initiate termination proceedings against the petitioner. A joint representation dated 24.07.2022, submitted by the affected employees seeking reconsideration remained unaddressed, prompting the petitioner to file the instant writ application.

Submissions on behalf of the Petitioner:

85. Learned counsel for the petitioner submits that the post of Graduate Teacher in the college is part of the sanctioned staffing pattern of 10 teaching posts and 4 non-teaching posts authorized by the State Government's resolution dated 18.10.1976 for non-government Sanskrit educational institutions. Therefore, no separate creation order was required.

It has been submitted that the petitioner's appointment was made strictly in accordance with Section 57(A) and Section 57(B) of the Bihar State Universities Act, 1976, following a public advertisement, an interview by a properly constituted selection committee containing Vice-Chancellor approved experts, and subsequent approval by the University syndicate.

86. It was pointed out that the impugned orders passed under the dictates of the State Government are arbitrary, discriminatory, and violative of Articles 14, 16, and 21 of the Constitution of India.

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Submissions on behalf of the State-Respondents (Respondent Nos. 01 to 03):

87. It has been contended that merely sanctioning a staffing pattern or overall staff strength to a Sanskrit institution does not exempt the college from securing specific prior governmental approval for individual appointments.

88. The answering respondents stated that the scrutiny conducted at the Directorate level pursuant to the previous court orders correctly revealed that the statutory preconditions under Section 35(2) were unmet, rendering the appointment non-est and illegal, thereby justifying the issuance of Memo No. 912 dated 21.04.2022 and the directive for termination.

Submissions on behalf of the University (Respondent Nos. 04 and 05):

89. Learned counsel for Kameshwar Singh Darbhanga Sanskrit University submitted that while the University had initially granted approval to the petitioner's appointment during the Syndicate meeting dated 24.03.2018, such approval was explicitly subject to legal objections or future findings by the State Government.

90. It was submitted that upon receiving the Education Department's directive expressing disagreement and invoking Section 35(2), the University acted in accordance with

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administrative hierarchy by recalling its earlier approval and instructing the college governing body via letter dated 16.06.2022 to comply with the State's order.

Anil Kumar Thakur Versus The State of Bihar & Others (Civil Writ Jurisdiction Case No. 31 of 2024)

91. The instant writ application has been filed by the petitioner seeking inter alia the following reliefs:

i. *Issuance of an appropriate writ, order, or direction in the nature of certiorari for quashing and setting aside the order contained in Memo No. 916 dated 21.04.2022 issued under the signature of the Director, Higher Education, Education Department, Government of Bihar, Patna, whereby the proposal sent by Kameshwar Singh Darbhanga Sanskrit University for concurrence/approval to the appointment of the petitioner as a Graduate Teacher (Post-Graduate Teacher in English) made by the Governing Body of Rudra Sanskrit Up-Shastri College, Hullash, Supaul, has been rejected on the ground of non-compliance with Section 35(2) of the Bihar State Universities Act, 1976;*

ii. *Quashing and setting aside the consequential communication contained in Memo No. 538 dated 16.06.2022 issued under the signature of the Registrar, Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, directing the Secretary/Principal of Rudra Sanskrit Up-Shastri*

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College, Hullash, Supaul, to initiate steps for the termination of service of the petitioner;

iii. *A declaration that the appointment of the petitioner to the post of Graduate Teacher in the said college was made after following due process of law against a duly sanctioned post and is valid, legal, and operational;*

iv. *Issuance of a writ of mandamus commanding the respondent authorities to allow the petitioner to continue in service on his respective post and to release his arrears of salary and current salary admissible in law;*

v. *Any other order or orders that this Court may deem fit and proper in the interest of justice.*

Facts of the Case

92. Brief facts emerging from the pleadings submitted by the parties in C.W.J.C. No. 31 of 2024 are that the Government of Bihar, through its Education Department, issued a Resolution dated 18.10.1976 laying down the staffing pattern for non-government affiliated Sanskrit Educational Institutions, sanctioning 10 teaching posts (comprising 1 post of Principal, 6 posts of Lecturers in Sanskrit subjects, and 4 posts of Teachers in modern/other subjects including English and Hindi) and 4 non-teaching posts. Rudra Sanskrit Up-Shastri College, Hullash, Supaul, is a permanently affiliated deficit-grant college under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga,

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where payment of salary to admissible staff is met through grants-in-aid released by the State Government.

93. On 26.09.2012, an advertisement was published by the college administration in the daily newspaper, inviting applications from eligible candidates for filling up teaching posts, including the post of Teacher in English against approved scales. The petitioner, possessing the requisite educational qualification (M.A. in English), submitted his candidature within the prescribed time. The duly constituted Selection Committee convened the interview on 26.10.2012, assessed the participating candidates, and prepared a merit list wherein the petitioner was placed at the top and recommended for appointment.

94. Pursuant to the recommendation of the Selection Committee and the subsequent decision of the Governing Body in its meeting dated 28.10.2012 (Resolution No. 3), an appointment letter bearing Letter No. 136/12 dated 29.10.2012 was issued to the petitioner. In pursuance thereof, the petitioner submitted his joining report on 06.11.2012, which was accepted by the Principal of the college. The petitioner has been continuously discharging his duties on the post since then.

95. The college management submitted the complete

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service particulars, records, and verification documents of the petitioner to Kameshwar Singh Darbhanga Sanskrit University vide letter dated 22.01.2017 for grant of formal concurrence/approval. The Approval, Seniority, and Pay Fixation Committee of the University considered the matter, and pursuant to the Syndicate's resolution dated 24.03.2018 (Resolution No. 18.1.3), the Registrar of the University notified the approval of the petitioner’s service vide Memo No. 653 dated 19.04.2018 w.e.f. his joining date i.e. 06.11.2012. The notification provided that payment of salary would be made upon receipt of grant from the State Government, subject to statutory objections, if any.

96. Despite the approval granted by the statutory bodies of the University, salary was not released, compelling the petitioner along with other similarly situated teachers to approach this Court in ***C.W.J.C. No. 18977 of 2019 (Santosh Kumar & Ors. v. The State of Bihar & Ors.)***. By order dated 16.09.2019, this Court disposed of the writ petition with a direction to the State and the Director, Higher Education, to take an appropriate decision regarding the allotment of funds to the University for payment of salary within a maximum period of 60 days.

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97. Pursuant to the aforesaid direction, the matter was considered by the Director, Higher Education, Department of Education, Government of Bihar, Patna, who passed the impugned order contained in Memo No. 916 dated 21.04.2022. The Director rejected the proposal for concurrence and refused to allocate funds on the ground that prior approval of the State Government had not been obtained before making the appointment in terms of Section 35(2) of the Bihar State Universities Act, 1976, while further directing the University to take immediate steps for terminating the petitioner's services. Consequently, the Registrar of the University issued Memo No. 538 dated 16.06.2022 directing the Secretary/Principal of the college to initiate termination proceedings against the petitioner in light of the departmental mandate. Aggrieved thereby, the petitioner submitted a detailed representation dated 24.07.2022 before the Education Department, Government of Bihar, bringing to their notice that he was appointed against a duly sanctioned post within the staffing pattern, but no action was taken thereon, leading to the filing of the present writ petition.

Submissions on behalf of the Petitioner

98. Learned counsel for the petitioner submits that the impugned order dated 21.04.2022 passed by the Director,

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Higher Education, and the consequential communication dated 16.06.2022 issued by the University are wholly arbitrary, illegal, and without jurisdiction.

99. It was contended that the post of English Teacher in the college was duly sanctioned under the staffing pattern fixed by the State Government vide Resolution dated 18.10.1976. Section 35 of the Bihar State Universities Act, 1976 mandates prior sanction of the State Government only for the creation of a new post involving financial liability, and does not require fresh prior permission of the State for appointing a qualified candidate against an already existing, duly sanctioned vacant post.

100. Learned counsel further urged that the selection of the petitioner was conducted strictly in accordance with Section 57(A) and the relevant statutes framed under Section 57(B) of the Act through an open advertisement, interview by a duly constituted Selection Committee comprising University experts, and subsequent approval by the Syndicate of the University vide notification dated 19.04.2018.

Submissions on behalf of the State-Respondents

101. It has been contended that Rudra Sanskrit Up-Shastri College, Hullash, Supaul, is an affiliated deficit-grant college,

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and any appointment carrying financial liability requires the prior approval of the State Government under Section 35(2) of the Bihar State Universities Act, 1976.

102. Learned counsel submits that it is an admitted position that no prior permission or approval of the State was sought by the Governing Body of the college before issuing the appointment letter to the petitioner on 29.10.2012. In terms of Section 35(3) of the Act, any appointment made contrary to the provisions of the Act or statutes is void ab initio, invalid, and liable to be terminated at any time. Therefore, the Director, Higher Education, was well within her statutory jurisdiction in refusing concurrence and directing the University to terminate the services of the petitioner.

Submissions on behalf of the Respondent-University

103. Learned counsel appearing for the respondent-University (Kameshwar Singh Darbhanga Sanskrit University, Darbhanga) submitted that Rudra Sanskrit Up-Shastri College, Hullash, Supaul, is an affiliated Up-Shastri College of the University. It was submitted that pursuant to the advertisement published by the Secretary of the College on 26.09.2012, the petitioner was interviewed by the Selection Committee, and upon its recommendation, the Governing Body of the College

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considered his candidature in its meeting held on 28.10.2012 and appointed him to the post of Graduate Teacher.

104. Learned counsel submitted that in the meeting of the Approval, Seniority and Pay Fixation Committee of the University held on 24.03.2018, the appointment of the petitioner was considered and approval was granted subject to certain conditions. It was specifically submitted that the University had granted approval to the service of the petitioner subject to the explicit condition that if any objection was raised by the State Government, the approval would automatically stand cancelled.

Dr. Upendra Kumar Sharma Versus The State of Bihar & Ors.(Civil Writ Jurisdiction Case No. 3163 of 2024)

105. The instant writ application has been filed by the petitioner seeking *inter alia* the following reliefs:

> ***(i)*** *Issuance of an appropriate writ in the nature of certiorari quashing the order bearing Memo No. 911 dated 21.04.2022, issued under the signature of the Director, Higher Education, Department of Education, Government of Bihar, whereby the consent/approval of the State Government to the appointment of the petitioner on the post of Assistant Professor (Lecturer) in the Department of Hindi in Bharateshwari Marwari Sanskrit College, Chhapra (Saran) has been refused on the ground that the appointment was made in violation of Section 35(2) of the Bihar State Universities Act, 1976, with a further direction to the University to take necessary steps for cancelling the*

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petitioner's appointment;

(ii) *A direction commanding the respondents to grant all consequential benefits to the petitioner, including the release of necessary grants/funds for payment of current salary as well as arrears of salary from the date of his initial joining;*

(iii) *Any other order or orders that this Court may deem fit and proper in the facts and circumstances of the case.*

Facts of the Case

106. Brief facts emerging from the pleadings submitted by the parties are that an advertisement was published in a daily newspaper on 26.12.2012 by Bharateshwari Marwari Sanskrit College, Chhapra (Saran), a permanently affiliated deficit-grant college under Kameshwar Singh Darbhanga Sanskrit University, Darbhanga, inviting applications for appointment to the post of Principal and one post of Lecturer in the Department of Hindi against approved pay scales.

107. The petitioner, possessing the requisite eligibility and educational qualifications, submitted his application within the prescribed period. The Selection Committee was duly constituted by the University vide Letter No. 588/13 dated 25.01.2013. Pursuant to an interview call letter dated 16.01.2013, the petitioner appeared on 27.01.2013 before the duly constituted College Selection Committee/Interview Board. The Selection Committee assessed the candidates, prepared a

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merit list, and recommended the petitioner's name for appointment on the vacant and sanctioned post of Lecturer in Hindi. On the same date (27.01.2013), the Governing Body of the College accepted and approved the recommendation, following which the Secretary of the College issued an appointment letter bearing Letter No. 28/2013 dated 28.01.2013. Pursuant thereto, the petitioner submitted his joining report on 04.02.2013, which was duly accepted by the Principal of the College, and he has been discharging his duties continuously since then.

108. Subsequently, the matter regarding approval of the petitioner's service was placed before the Approval, Seniority and Pay Fixation Committee of the University on 24.03.2018, which recommended approval, and the same was formally approved by the Syndicate of the University in its meeting dated 24.03.2018. Consequently, the Registrar of Kameshwar Singh Darbhanga Sanskrit University notified the approval of the petitioner's service as Lecturer/Assistant Professor in Hindi w.e.f. his initial joining date (04.02.2013) vide Memo No. 626 dated 17.04.2018.

109. Despite the approval of his services by the statutory authorities of the University, the petitioner was not paid his

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salary, compelling him to approach this Court in C.W.J.C. No. 17400 of 2019. This Court disposed of the said writ application on 27.08.2019, directing the State to take an appropriate decision with regard to allotment of funds to the University for payment of salary, and directing the Director, Higher Education, to do the needful within sixty days. In compliance thereof, the University furnished all requisite descriptions, appointment records, and verification charts to the State Government vide communications dated 19.06.2021 and 26.06.2021, reiterating that the petitioner was appointed against a sanctioned vacant post.

110. However, instead of releasing the funds/grant, the Director, Higher Education, Department of Education, Government of Bihar, passed the impugned order dated 21.04.2022 (Memo No. 911), refusing consent to the petitioner’s appointment on the sole ground that prior approval of the State Government under Section 35(2) of the Bihar State Universities Act, 1976 had not been obtained, while further directing the University to initiate steps for cancellation of the petitioner's appointment. Following this, the University issued consequential communications directing the Governing Body to act in accordance with the departmental directives.

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Submissions on behalf of the Petitioner

111. Learned counsel for the petitioner submits that the petitioner was appointed by the competent appointing authority, the Governing Body of the affiliated college against a duly sanctioned and vacant post of Lecturer in Hindi, which falls squarely within the sanctioned staffing pattern of ten teachers (including Principal) prescribed for Shastri-degree Sanskrit colleges under Government Resolution dated 18.10.1976.

112. It was strenuously contended that the requirement of "prior approval" under Section 35(2) of the Bihar State Universities Act, 1976 cannot be invoked to invalidate an appointment made against an already existing sanctioned post. Learned counsel placed heavy reliance upon the authoritative Full Bench decision of this Court in ***Braj Kishore Singh & Ors. v. State of Bihar & Ors. [1997 (1) PLJR 509]***, particularly paragraphs 21, 22, and 25 thereof, wherein it has been laid down that when an appointment is made against a sanctioned vacant post within the staffing pattern, prior approval of the State Government is not required and the State cannot withhold statutory funding on such ground.

113. It was also argued that the Principal of the same college, who was appointed under the very same advertisement

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dated 26.12.2012 following an identical procedure without prior approval of the State, is regularly receiving salary and pay fixation in pursuant to the order dated 02.07.2015 passed by the Hon'ble Chancellor in *Dr. Gajanan Pandey v. KSDS University, Darbhanga* (File No. SU-18/2014). Therefore, picking out the petitioner for hostile treatment while denying his legitimate salary after more than a decade of continuous, unblemished service is wholly arbitrary, discriminatory, and violative of Articles 14 and 16 of the Constitution of India, besides being passed in utter violation of the principles of natural justice without affording any opportunity of hearing.

Submissions on behalf of the State

114. Per contra, learned counsel appearing for the State-respondents submitted that the college in question is a deficit-grant-in-aid institution, where financial liabilities for salary and allowances are directly borne out of grants released from the public exchequer.

115. Learned counsel emphasized that it is an admitted position that no prior approval was ever sought from or granted by the State Government prior to issuing the appointment letter to the petitioner on 28.01.2013.

116. It is further submitted that under Section 35(3) of

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the Act, any appointment made contrary to the provisions of the Act, statutes, or rules, or in an irregular or unauthorized manner, is void ab initio and liable to be terminated at any time. Since the statutory condition precedent of prior governmental approval was breached, the Director, Higher Education was fully justified in refusing consent vide Memo No. 911 dated 21.04.2022 and directing the University to take necessary steps for cancellation.

Submissions on behalf of the University

117. Learned counsel appearing on behalf of the Kameshwar Singh Darbhanga Sanskrit University, while opposing the writ petition, submitted that Bharateshwari Marwari Sanskrit College, Chhapra (Saran) is an affiliated college under the respondent-University. It was urged that the entire selection process, comprising the publication of the advertisement dated 26.12.2012, conducting of interviews by the College Selection Committee, and the subsequent issuance of the appointment letter dated 28.01.2013, was carried out strictly at the level of the College and its Governing Body.

Rambabu Tiwari @ Ram Babu Tiwari vs. **The State of Bihar & Ors. (Civil Writ Jurisdiction Case No. 3260 of 2024)**

118. The instant writ application has been filed by the petitioner seeking *inter alia* the following reliefs:

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1. *Issuance of an appropriate writ in the nature of certiorari quashing the order contained in Memo No. 925 dated 21.04.2022 issued under the signature of the Director, Higher Education, Department of Education, Government of Bihar, whereby the consent of the State Government on the appointment of the petitioner to the post of Principal in Rishi Kulashram Sanskrit College, Sangrampur, District – East Champaran has been refused on the ground that the appointment was made in violation of Section 35(2) of the Bihar State Universities Act, 1976, and further directing the University to take all necessary steps for cancelling the appointment of the petitioner, along with all consequential reliefs.*

2. *For issuance of any other relief/reliefs to which the petitioner may be found entitled in the eye of law and in the facts and circumstances of the case.*

Facts of the Case

119. Brief facts emerging from the pleadings submitted by the parties in C.W.J.C. No. 3260 of 2024 are that an advertisement was published by Rishi Kulashram Sanskrit College, Sangrampur, District – East Champaran (an affiliated Sanskrit Up-Shastri College under Kameshwar Singh Darbhanga Sanskrit University) in a daily newspaper inviting applications for appointment to the sanctioned and vacant post of Principal in the approved pay scale of the University. The petitioner, possessing the requisite qualifications, applied within the stipulated period and was called to appear before the duly

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constituted College Selection Committee/Interview Board on 24.03.2013 vide interview letter dated 14.03.2013.

120. Following the interview and completion of the selection process on 24.03.2013, the Selection Committee prepared the merit list and recommended the name of the petitioner for appointment. Accepting the said recommendation, the Governing Body of the College resolved on 29.03.2013 to appoint the petitioner. Consequently, the Secretary of the College issued the appointment letter bearing Letter No. 242/13 dated 01.04.2013. Pursuant thereto, the petitioner submitted his joining on 05.04.2013, which was duly accepted by the Secretary of the College, and he commenced discharging his duties continuously on the said post.

121. The matter concerning the grant of approval to the petitioner's appointment was subsequently placed before the Approval, Seniority and Pay Fixation Committee of the respondent-University in its meeting dated 24.03.2018, which recommended approval. The Syndicate of the respondent-University approved the recommendation on the same day. Consequent thereupon, the Registrar of the University issued a notification bearing Memo No. 653 dated 19.04.2018 formally notifying approval of the petitioner's services on the post of

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Principal with effect from the date of his initial joining, i.e., 05.04.2013.

122. Despite the approval granted by the University, the petitioner was not disbursed his salary. Aggrieved thereby, the petitioner approached this Court by filing C.W.J.C. No. 20290 of 2019. This Court disposed of the writ application vide order dated 01.10.2019, directing the State authorities to take an appropriate decision with regard to the allocation of requisite funds to the University within a period of 60 days so that salary could be disbursed to the petitioner.

123. Following the said disposal, the petitioner submitted a representation dated 12.10.2020 (received on 12.11.2020) before the University authorities. The University made repeated requisitions and correspondences to the Education Department, Government of Bihar, including communications dated 19.06.2021 and 26.06.2021 furnishing the complete details and appointment format of the petitioner. The petitioner's name was also placed at Serial No. 21 in the proceeding of the Directorate of Higher Education under Memo No. 1305 dated 08.07.2021. However, vide the impugned order contained in Memo No. 925 dated 21.04.2022, the Director, Higher Education, Department of Education, Government of Bihar rejected the claim and

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refused consent to the appointment on the ground that prior approval of the State Government had not been obtained under Section 35(2) of the Bihar State Universities Act, 1976, and further directed the University to take immediate steps for cancelling the petitioner's appointment. Pursuant to the said communication, the University directed the Governing Body to take consequential action. Hence, the present writ application.

Submissions on behalf of the Petitioner

124. Learned counsel for the petitioner submits that the impugned order dated 21.04.2022 is arbitrary, illegal, and contrary to the settled principles of law laid down by the Full Bench of this Court in ***Braj Kishore Singh v. The State of Bihar & Ors. [1997 (1) PLJR 509]***. It is contended that the requirement of prior approval under Section 35(2) of the Bihar State Universities Act, 1976 does not operate as an absolute bar when an appointment is made against a duly sanctioned vacant post falling within the prescribed staffing pattern. It was argued that the post of Principal in the College is a duly sanctioned post within the staffing pattern established by the State Government's Resolution dated 18.10.1976 for Sanskrit Up-Shastri Colleges (which sanctions eight teaching posts including the Principal and three non-teaching posts).

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125. Learned counsel further contended that the petitioner was selected after wide public advertisement and evaluation by a duly constituted Selection Committee/Interview Board, followed by appointment through the Governing Body, which is the competent appointing authority. Once the statutory Approval, Seniority and Pay Fixation Committee and the Syndicate of the University scrutinised and formally approved the petitioner's appointment vide notification dated 19.04.2018 with effect from 05.04.2013, the State Government acted beyond its authority in refusing financial consent and directing the petitioner's cancellation simply because prior approval had not been sought. Learned counsel maintained that the State Government cannot selectively raise the plea of Section 35(2) to withhold salary grants after long-standing continuous service when it has routinely honoured salary grants for identically situated staff in affiliated Sanskrit colleges appointed within the approved staffing pattern without prior governmental approval. Furthermore, the impugned decision was passed in violation of the principles of natural justice without providing any notice or opportunity of hearing to the petitioner.

Submissions on behalf of the State:

126. *Per contra*, learned counsel appearing for the State-

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respondents submitted that under Section 35(2) of the Bihar State Universities Act, 1976, no affiliated college can appoint any person to any post without the prior approval of the State Government. It is contended that the statutory language of Section 35(2) is mandatory and admits of only one exception under the proviso thereto, which permits temporary appointments against sanctioned teaching posts for a period not exceeding six months without prior approval. Under Section 35(3), any appointment made contrary to the Act, Statutes, or Rules is invalid and liable to termination at any time.

Learned counsel contended that the Full Bench decision in ***Braj Kishore Singh (supra)*** does not dispense with the requirement of prior governmental approval; rather, as clarified in Paragraphs 21 and 26 thereof, prior approval remains the general rule and dispensing with it is confined strictly to rare, compelling, or exceptional circumstances. It is further submitted that under Section 57A of the Bihar State Universities Act, appointments of teachers in affiliated colleges must strictly adhere to the statutory selection mechanism, and the petitioner has failed to establish that the Selection Committee was validly constituted in terms of Section 57A. Therefore, since the Governing Body appointed the petitioner without seeking or

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obtaining prior sanction or approval from the State Government, the Director, Higher Education, was fully justified in refusing consent and directing the University to take steps for cancellation of the appointment vide Memo No. 925 dated 21.04.2022.

Submissions on behalf of the Respondent-University

127. Learned counsel appearing for the Kameshwar Singh Darbhanga Sanskrit University submitted that Rishi Kulashram Sanskrit Up-Shastri College is an affiliated Up-Shastri college under the University. It is submitted that the Approval, Seniority and Pay Fixation Committee in its meeting dated 24.03.2018 considered the appointment of the petitioner and granted approval subject to the condition that if any objection was subsequently raised by the State Government, the approval would automatically stand cancelled.

Dr. Vikash Kumar vs State of Bihar & Ors. (Civil Writ Jurisdiction Case No. 3677 of 2024)

128. The instant writ application has been filed by the petitioner seeking inter alia the following reliefs:

> (i) *Issuance of an appropriate writ in the nature of certiorari for quashing the order contained in Memo No. 3240 dated 02.11.2022 issued under the signature of the Director, Higher Education, Department of Education, Government of Bihar, whereby the consent/approval of the State Government*

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to the appointment of the petitioner on the post of Assistant Professor in the Department of History in Sri Ram Sanskrit College, Sarauti, Jehanabad, has been refused on the ground of alleged violation of Section 35(2) of the Bihar State Universities Act, 1976, with a further direction to the University to take necessary steps for cancelling his appointment.

(ii) Issuance of an appropriate writ in the nature of mandamus commanding the respondents to grant all consequential service and financial benefits, including release of regular current salary as well as arrears of salary admissible to the post.

(iii) Any other relief or reliefs for which the petitioner may be found entitled in the eye of law and in the facts and circumstances of the case.

Facts of the Case:

129. Brief facts emerging from the pleadings submitted by the parties are that Sri Ram Sanskrit College, Sarauti, Jehanabad, is a permanently affiliated deficit grant-in-aid institution affiliated with Kameshwar Singh Darbhanga Sanskrit University, Darbhanga. Pursuant to an advertisement published in the daily newspaper on 11.06.2015 inviting applications for appointment against the sanctioned post of Lecturer/Assistant Professor in the Department of History, the petitioner, possessing the requisite qualifications (M.A., Ph.D., and NET), submitted his application.

130. A duly constituted Selection Committee, constituted under the provisions of the Bihar State Universities Act, 1976,

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conducted the interview on 15.11.2015, prepared a merit panel, and recommended the petitioner's name to the Governing Body of the College. The Governing Body accepted the recommendation and resolved to appoint the petitioner, following which an appointment letter bearing Memo No. 80/15(Kha) dated 18.11.2015 was issued by the Secretary of the College. The petitioner submitted his joining on 21.11.2015, which was accepted by the Principal of the College.

131. The matter regarding approval of the petitioner's service was placed before the Approval, Seniority and Pay Fixation Committee of the University on 17.04.2017 and subsequently approved by the Syndicate. Consequently, the Registrar of the University issued a notification bearing Memo No. 1805 dated 11.11.2017 granting approval to the petitioner's appointment with effect from his initial date of joining, i.e., 21.11.2015. Thereafter, the Governing Body of the College confirmed his services by a resolution dated 09.04.2021, communicated vide letter dated 10.04.2021.

132. Owing to the non-allotment of requisite grants and non-payment of salary, the petitioner previously approached this Court in C.W.J.C. No. 10911 of 2019. By order dated 17.09.2019, this Court disposed of the writ petition directing the

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State Government (Director, Higher Education) to take an appropriate decision with regard to allocation of funds to the University for the disbursement of salary. When compliance was delayed, contempt proceedings were initiated by the petitioner.

Thereafter, the Director, Higher Education, Department of Education, Government of Bihar, passed the impugned order contained in Memo No. 3240 dated 02.11.2022, refusing consent to the petitioner's appointment on the ground that prior approval of the State Government had not been obtained under Section 35(2) of the Bihar State Universities Act, 1976, and directing the University to take steps for cancellation of his appointment. Acting upon the departmental directives, the University cancelled the approval granted to the petitioner and issued consequential instructions to the Governing Body of the College vide Letter No. 42/23 dated 11.01.2023 to comply with the State's directions. Aggrieved thereby, the petitioner has preferred the present writ petition.

Submissions on behalf of the Petitioner

133. Learned counsel for the petitioner submits that the impugned order dated 02.11.2022 is arbitrary, unjustified, and contrary to the settled legal position. It was contended that the petitioner was appointed following an open public

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advertisement, proper screening, and an interview conducted by a statutory Selection Committee, strictly against a duly sanctioned vacant post falling within the sanctioned staffing pattern prescribed by the State Government under Government Resolution dated 18.10.1976 (admitting ten teaching posts, including one post for Modern Subject.

134. It was further submitted that the petitioner has continuously discharged his teaching duties with an unblemished record since 21.11.2015, and withholding his salary or directing his termination without affording any opportunity of hearing is in flagrant abuse of the principles of natural justice and Article 14 of the Constitution of India.

Submission of Petitioners in all batch Cases:

135. Learned Counsel for the Petitioners in all the present batch of writ petitions contended that the requirement of prior approval contemplated under Section 35(2) of the Bihar State Universities Act, 1976, does not operate as an absolute bar in cases where appointments are made against vacant, formally sanctioned posts conforming to the approved staffing pattern. Placing reliance on the Full Bench decision of this Court in ***Braj Kishore Singh v. State of Bihar, reported in 1997 (1) PLJR 509***, as well as the coordinate Bench judgment dated 02.04.2025

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rendered in ***C.W.J.C. No. 2022 of 2024 (Sanjeev Kumar Ishwar vs State of Bihar & Ors.)***, learned counsel for the petitioners in all the cases asserts that where an appointment is made against an existing sanctioned post and duly approved by the statutory bodies of the University (the Approval, Seniority & Pay Fixation Committee and the Syndicate), the State Government cannot reject the grant of approval on a hyper-technical invocation of prior approval under Section 35(2).

It was further submitted that the reliance placed by the State Government on section 35(2) of the Bihar State Universities Act, 1976 to reject their appointments is completely misconceived, erroneous, and contrary to settled law, including the ***Full Bench judgment of this Court in Braj Kishore Singh v. State of Bihar (1997 (1) PLJR 509)*** as well as the judgment dated 01.11.2018 passed in ***C.W.J.C. No. 10397 of 2014*** (***(Kiran Kumar v. State of Bihar)***.

Relying on C***.W.J.C. No. 10397 of 2014 (Kiran Kumar v. State of Bihar) and C.W.J.C. No. 8628 of 2013 (Dr. Ravi Ranjan vs. L.N. Mithila University & Others)***, learned counsel contended that Section 35 of the Act applies exclusively to the creation and sanction of posts, and the State has no jurisdiction to interfere in appointments made against already sanctioned

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posts.

Primary Submissions made on behalf of State in all batch Cases:

136. The learned counsel appearing for the State-respondents in the batch of all writ petitions submits that the cases are fit to be dismissed as the appointment of the petitioner was made without complying with Section 35(2) of the Bihar State Universities Act, 1976. It is contended that Section 35(2) explicitly mandates that no college other than those specified shall appoint any person on any post after the commencement of the Act, without the prior approval of the State Government, except for filling up a sanctioned post of a teacher for a period not exceeding six months. The mandatory scheme of Section 35(2) of the Bihar State Universities Act, 1976, no affiliated college can appoint any person to any post without the prior approval of the State Government, save and except temporary arrangements not exceeding six months under the statutory proviso.

137. Since the appointments were made in complete disregard to the provision incorporated under section 35(2) of the Bihar State Universities Act, 1976, therefore, the termination of Petitioners was rightly ordered and directed.

138. The respondents further indicated that while Section

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57A governs the selection committee procedure for affiliated colleges, the overarching financial and administrative mandate of Section 35(2), requires prior governmental approval, which was never obtained prior to the petitioner's appointment in 2012. It is further submitted that subsequent amendments to the Act, such as Section 57A (6) introduced in 2015 regarding scrutiny of teachers appointed prior to 19.04.2007, were meant for specific categories and did not apply to grant-in-aid affiliated colleges making appointments post-2007 without prior approval.

Primary Submissions made on behalf of university in all batch cases:

139. The counsel for the University submits that the appointments were made following a selection process initiated by the College. It is submitted that the Approval, Seniority and Pay Fixation Committee of the University considered the recommendation of the College and granted approval subject to the condition that if any objection were raised by the State Government, such approval would stand cancelled, and that payment of salary remained contingent on the receipt of grant-in-aid from the State.

140. It was further stated that upon receipt of the rejection order from the Director, Higher Education, the

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University had no administrative recourse but to withdraw its conditional approval and instruct the Governing Body of the College to carry out the directions issued by the State Government and that the said respondent in pursuant to the directions issued by the State Government.

Issue for Consideration:

141. Since common questions of law and facts are involved and identical contentions have been raised by the learned counsel for the parties in all the writ petitions, the issues arising for determination in these cases are consolidated and formulated hereunder:

> ***"Whether the orders passed by the Director, Higher Education, Education Department, Government of Bihar dated 21.04.2022 and 02.11.2022, rejecting the University's recommendations/approvals for the appointments of the petitioners against pre-existing, duly sanctioned vacant posts within the approved staffing pattern (fixed vide Resolution dated 18.10.1976), solely on the ground of non-compliance with Section 35(2) of the Bihar State Universities Act, 1976 are legally sustainable, or whether the requirement of prior***

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approval stands out to fall within the same interpretation as propounded in the decision rendered by the Full Bench judgment of this Court in Braj Kishore Singh v. State of Bihar [1997 (1) PLJR 509], holding the consequential termination orders/communications issued by Kameshwar Singh Darbhanga Sanskrit University arbitrary, illegal, and violative of Articles 14, 16, and 21 of the Constitution of India?"

Considerations

I. Having heard learned counsel for the respective parties and upon a meticulous examination of the records, the principal question that falls for determination is whether the Director, Higher Education, Education Department, Government of Bihar, was legally justified in rejecting the recommendations/approvals of the petitioners' appointments and issuing directives for their termination solely on the ground of non-compliance with the requirement of prior approval of the State Government under Section 35(2) of the Bihar State Universities Act, 1976.

II. The core substratum of the State's stand rests upon a literal interpretation of Section 35(2) of the Act, which mandates

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that no affiliated college shall appoint any person on any post without the prior approval of the State Government. However, this exact statutory embargo, its operational limits, and its interplay with appointments made against posts created under an approved staffing pattern came up for exhaustive consideration before a Full Bench of this Court in ***Braj Kishore Singh v. State of Bihar reported in (1997) 1 PLJR 509***.

III. The Full Bench in Braj Kishore Singh (supra), while examining the scope and applicability of Section 35 of the Bihar State Universities Act, 1976, laid down the following settled principles of law:

(a) Where the State Government or the competent authority has prescribed and approved a general staffing pattern for educational institutions/colleges, non-teaching and teaching posts falling within the framework of such staffing pattern will be deemed to have been created with the prior approval of the State Government (i.e., duly sanctioned).

(b) Once a general staffing pattern exists and posts are available thereunder, it is absurd to suggest that individual sanction must be obtained over and again

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for each post in different colleges. Appointments made within the sanctioned strength/staffing pattern cannot be branded as illegal for want of post-creation approval.

(c) The statutory requirement of "prior approval" under Section 35(2) in the matter of appointments must be read down to include post-facto approval. A literal insistency on prior approval in every individual instance leads to an absurd, unworkable situation and renders the scheme of affiliation and functioning of colleges unviable.

(d) The authority of the State Government under Section 35 is properly directed toward verifying the existence of sanctioned posts, scrutinizing eligibility, and pre-empting back-door entries. Where appointments are made through a open, transparent selection process against sanctioned posts within the staffing pattern, the State cannot withhold statutory approval or funding merely by invoking the formal lack of "prior approval".

(e) Where appointees were selected through a statutory selection process and have continued in uninterrupted

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service for a long period, unsettling their services after a protracted lapse of time is an improper exercise of discretion and contrary to constitutional mandates.

IV. Applying the aforesaid authoritative ratio to the facts of the present batch of writ applications, what culminates, is reduced and expressed as follows:

(a) The appointments of the petitioners were made against vacant teaching and non-teaching posts that flow directly from the general staffing pattern sanctioned by the State Government's Education Department vide Resolution dated October 18, 1976, for deficit grant-in-aid Sanskrit institutions (prescribing 10 teaching posts and 4 non-teaching posts). The posts, therefore, carry statutory sanction within the ratio of Braj Kishore Singh (supra).

(b) The selection of the petitioners was carried out pursuant to open public advertisements, through duly constituted Selection Committees comprising Vice-Chancellor-approved University experts under Sections 57A/57B of the Act. Their appointments were formally scrutinized and approved by the statutory bodies of Kameshwar Singh Darbhanga Sanskrit

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University (the Approval, Seniority and Pay Fixation Committee and the Syndicate).

(c) The petitioners have continuously discharged their duties for over a decade (having joined between 2008 and 2015). The State Government's sudden invocation of Section 35(2) to direct their termination after years of unblemished service is arbitrary, discriminatory, and violative of Articles 14, 16, and 21 of the Constitution of India.

v. A coordinate Bench of this Court in ***C.W.J.C. No. 2022 of 2024 (Sanjeev Kumar Ishwar v State of Bihar, decided on 02.04.2025),*** while considering an identical departmental rejection order (Memo No. 914 dated 21.04.2022), issued by the Director, Higher Education, quashed the rejection order by directly applying the Full Bench decision in Braj Kishore Singh (supra). This Court finds no reason to take a different view.

vi. This Court also takes note of another coordinate bench judgement of the Court, rendered in the case of ***Shivchandra Pratap vs. Kameshwar Singh Darbhanga Sanskrit University & Others having CWJC No. 17192 of 2022***, wherein in paragraph no. 25, it has been categorically

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held that.

> "25. ..... *there is no requirement to take prior approval of the State Government, when the post is already sanctioned (Annexure 17 and 18) and the petitioner was legally appointed because the post was advertised and he was appointed after facing the interview. In view of the Full Bench judgement, the post facto approval of the State Government is not required after scrutiny of qualification*."

The aforesaid principle was reiterated in paragraph 21 of the decision rendered by this Hon'ble Court in the case of ***Sanjeev Kumar Ishwar vs. State of Bihar & Ors. having CWJC No. 2022 of 2024***.

VII. Consequently, the impugned rejection orders passed by the Director, Higher Education, on the sole ground of non-compliance with Section 35(2) of the Bihar State Universities Act, 1976, cannot be sustained in law.

VIII. At this juncture, it is not out of place to mention, that the Courts are being flooded with numerous cases of such kind wherein the punishments are being imposed upon the delinquent employee without the statutory compliance of the provisions laid down in the governing laws. As such,

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numerous cases similar to the present case, have attained finality by the judgements pronounced by different Bench of this Hon'ble Court. At this juncture, in the opinion of this Court, it is expedient to refer to the Bihar State Litigation Policy, 2011.

IX. Accordingly, in light of the same, it is appropriate to place herein clause 4C of the Bihar State Litigation Policy, 2011, which reads as follows:

> *"4.C(1). A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representations/ applicant employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants".*

x. The aforementioned clause has been dealt in the case of **Lilawati Mishra vs. State of Bihar reported in (2022) 2 PLJR 671**, wherein it was stated and observed that the State has formulated a Litigation Policy with the avowed object

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of not only reducing litigation, but also reducing avoidable cost on unproductive litigation – the object of the policy is to transform the State Government into an efficient and responsible litigant and also to deal with the genuine grievances of the employee with reasonable dispatch – in the policy the State terms it to be a "responsible litigant" – however the policy was never put to practice, for had it been so, all adjudicatory forums, including High Court would not have been flooded with litigation – methods of alternative dispute resolution must be implemented so as to reduce this number so far as possible.

XI. Further, in the case of **Amresh Kumar Singh vs State of Bihar, reported in (2018) 2 PLJR 929,** while referring the Clause 4-C(1), it has been opined that all similarly situated employees should be granted the benefit of covered matters and if orders of the court have been implemented in case of certain litigants, it should be implemented in respect of all other identically situated persons.

XII. In view of the same, it is expected from the Learned Advocate General, State of Bihar, to coordinate with the Chief Secretary of the State, along with the head officials of the concerned departments of the State, to devise and

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formulate a mechanism to ensure that matters similar to the case at hand, and the cases which have attained finality by the judgement of this Hon'ble Court, must be categorically scrutinised. After the scrutiny is done, similar matters which have attained finality by the order of this Court, may be applied in *sensu stricto*, to the cases, so far as the appointment and payment related issues, similar to the present batch of petitions are concerned. This is to preclude the unnecessary flooding of the judicial system with matters, which have been already dealt by this Court comprehensively.

XIII. Considering the aforesaid backdrop, all the writ applications are **allowed** in the following terms:

(a) The impugned orders dated 21.04.2022, 02.11.2022, and any allied rejection orders passed by the Director, Higher Education, Education Department, Government of Bihar, Patna, in respect of the petitioners in this batch of writ applications are hereby **quashed and set aside**.

(b) All consequential letters, communications, and Office Orders issued by Kameshwar Singh Darbhanga Sanskrit University, Darbhanga (including letters dated 16.06.2022, 20.06.2022, 11.01.2023, and Memo No.

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8971 dated 02.09.2026), directing the Colleges/Governing Bodies to terminate or invalidate the services of the petitioners, are hereby **quashed and set aside**.

(c) The petitioners are thus, declared to be lawfully appointed against their respective sanctioned posts, and they shall be permitted to continue in service uninterruptedly with all consequential service benefits.

(d) The State-respondents (specifically Respondent No. 2, the Director, Higher Education, Education Department, Bihar) are directed to release the necessary grant-in-aid/funds to Kameshwar Singh Darbhanga Sanskrit University for the disbursement of regular current salary as well as arrears of salary due to the petitioners from their respective dates of joining/approval, within a period of three (3) months from the date of receipt/production of a copy of this order.

142. The copy of this judgment shall be transmitted to the office of Learned Advocate General, State of Bihar as well as the office of the Chief Secretary, State of Bihar, for necessary and appropriate action to be taken in light of the Bihar State Litigation Policy, 2011.

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143. There shall be no order as to costs. Pending Interlocutory Applications, if any, stand disposed of accordingly.

(Kumar Manish, J)

Sanjeev/-

AFR/NAFR	
CAV DATE	02.11.2026
Uploading Date	20.11.2026
Transmission Date	

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