

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.263 of 2025
In
Civil Writ Jurisdiction Case No.2965 of 2024

Balendra Shukla Son of Sri Janardan Shukla Permanent resident of 16/267, Raghav Nagar, Near Jeevan Marg Sophia Secondary School, P.S. - Deoria Khas, District- Deoria (Uttar Pradesh), presently residing at Quarter No. A/3, Sri Krishna Singh Path, P.S. - Shastri Nagar, District- Patna (Bihar)

... ... Appellant/s
Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Principal Secretary, Department of Education, Government of Bihar, Patna.
4. The Chancellor of Universities, Bihar, Patna.
5. The Vice Chancellor, Aryabhata Knowledge University, Mithapur, Patna.
6. The Registrar, Aryabhata Knowledge University, Patna.
7. Kumari Anjana Wife of Sanjay Sinha, Resident of Flat No. 301, Block B2, Jagmano Kuteer, Akashwani Road, Khajpura, Patna - 800014.
8. The Registrar General, Hon'ble Patna High Court, Patna.

... ... Respondent/s

with
Letters Patent Appeal No. 356 of 2025
In
Civil Writ Jurisdiction Case No.2965 of 2024

The Principal Secretary to the Governor of Bihar, Governors Secretariat, Raj Bhawan, Patna.

... ... Appellant/s
Versus

1. Kumari Anjana Wife of Sanjay Sinha, Resident of Flat No. 301, Block B2, Jagmano Kuteer, Akashwani Road, Kajpura, Patna - 800014.
2. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
4. The Principal Secretary, Department of Education, Government of Bihar, Patna.
5. The Vice Chancellor, Aryabhata knowledge University, Mithapur, Patna.



6. The Registrar, Aryabhata Knowledge University, Patna.

... ... Respondent/s

Appearance :

(In Letters Patent Appeal No. 263 of 2025)

For the Appellant/s	:	Mr. P.K. Shahi, Advocate General
		Ms. Surya Nilambari, Advocate
For the Chancellor	:	Mr. Rajendra Giri, Advocate
For the Respondent/s	:	Mr. Sarvesh Kumar Singh, AAG-13
		Mr. Abhinav Alok, AC to AAG-13
		Mr. Ravi Kumar, AC to AAG-13
For the Respondent No.7:	:	Mr. Aditya Sahay, Advocate
		Ms. Ankita Kumari, Advocate
		Md. Fazle Kari, Advocate
For the University	:	Mr. Bindhayachal Rai, Advocate
		Mr. Sanjiv Kumar, Advocate
For the P.H.C.	:	Mr. Ashar Mustafa, Advocate
(In Letters Patent Appeal No. 356 of 2025)		
For the Appellant/s	:	Dr. K.N. Singh, Sr. Advocate
		Mr. R.K. Giri, Advocate
		Mr. Amish Kumar, Advocate
		Mr. Rajiv Ranjan Kr. Pandey, Advocate
For the Respondent/s	:	Mr. Sarvesh Kumar Singh, AAG-13
		Mr. Abhinav Alok, AC to AAG-13
		Mr. Ravi Kumar, AC to AAG-13
For the University	:	Mr. Bindhayachal Rai, Advocate
		Mr. Sanjiv Kumar, Advocate
For the P.H.C.	:	Mr. Ashar Mustafa, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 08-07-2025

Both the appeals have been taken up together



and are being disposed off by this common judgment.

2. We have heard Sri P.K. Shahi, learned Senior Advocate in L.P.A. No. 263 of 2025, which has been filed by a Judicial Officer, who at the relevant time was on deputation in Raj Bhavan; Mr. Rajendra Giri, learned Advocate for the Hon'ble Chancellor; Mr. Ashhar Mustafa for the High Court and Mr. Aditya Prakash Sahay, learned Advocate for the respondent/writ petitioner and Mr. Bindhyachal Rai and Mr. Sanjiv Kumar, learned Advocates for the Aryabhatta Knowledge University. The State in both the cases is represented by Mr. Abhinav Alok, learned Advocate.

3. Though initially the arguments advanced on behalf of the appellants was on the merits of the judgment impugned in the appeals as also against some unwarranted, uncharitable and adverse remarks against the Judicial Officer as also comments on the functioning of the Governor's Office; but today the learned Advocates for the appellants have restricted their arguments only



against the remarks in the judgment against them, which they pray to be expunged for various reasons *viz.*, that none of the affected parties were heard before such remarks were made; those remarks are not in the nature of any correctional approach of the Court as also on the ground that such remarks do not make up for the reasons why the writ petition was allowed.

4. In order to appreciate the arguments of the parties with respect to the remarks against them to be unmerited and uncalled for, it would be only appropriate if we refer to the facts of the case in short so as to appreciate whether the remarks complained against by the appellants is unworthy of being retained in the judgment.

5. The writ petitioner/Kumari Anjana was appointed as a CDPO in the Department of Social Welfare, Government of Bihar, on which post she joined on 24.10.2000 in the pay-scale of Rs. 6500-10,500/-. After 13 years of service, she was granted the first ACP



(Assured Career Progression) in PB-2, Grade Pay of Rs. 5400/-. She had thereafter applied against an advertisement of Aryabhatta Knowledge University, Patna (hereinafter referred to as 'AKU') for one of the non-teaching posts of Deputy Registrar in the University.

6. The minimum qualification in the advertisement for the post of Deputy Registrar was either nine years experience as Assistant Professor in the Academic Grade Pay of Rs. 6000/- with experience in educational administration or comparable experience in any other Institute of Higher Education/Research Establishment; or five years of administrative experience as Assistant Registrar; or an equivalent post; which minimum condition could be relaxed on the recommendation of the Screening/Selection Committee.

7. The writ petitioner was considered and appointed as Deputy Registrar, on which post she joined as a Deputationist, retaining her lien on the substantive post of CDPO in the Department of Social Welfare,



Government of Bihar. Later, she was confirmed in the University service sometimes in the year 2014. The writ petitioner thereafter had resigned from the substantive post of CDPO in the year 2017, but the same was accepted from an anterior date of her initial appointment as Deputy Registrar.

8. It was the case of the writ petitioner before the learned Single Judge that her appointment and confirmation on the post passed the muster of the audit. The records further reveal that later, a PIL *vide* CWJC No. 5406 of 2020 was filed challenging her appointment but during the pendency of the PIL, a private person had filed a writ petition, questioning the experience of the petitioner which had persuaded the University Administration to consider and appoint her on the post of Deputy Registrar in the University.

9. The latter writ petition, referred to above, was disposed off, giving liberty to that private person to approach the Hon'ble Chancellor's Office for necessary



correctional decision.

10. It was under these circumstances that the matter was placed before the Hon'ble Chancellor for consideration of the correctness of the decision of appointing the writ petitioner/Kumari Anjana on the post of Deputy Registrar, for the challenge was to her experience which fell short of the minimum qualification of experience in the Advertisement issued by the University.

11. It appears that the Hon'ble Chancellor *vide* his order dated 26.09.2023 concluded that though the writ petitioner met the academic standards for being appointed on the post but lacked necessary advertised experience for being considered for the post.

12. The records were gone into by the learned Single Judge, who had found that this order of the Hon'ble Chancellor was communicated to the writ petitioner on 06.01.2024.

13. Primarily based on this aspect of the matter,



the learned Single Judge concluded that the order of the Hon'ble Chancellor appeared to be ante-dated.

14. The order passed by the Hon'ble Chancellor, terminating the services of the writ petitioner/Kumari Anjana was not found to be sustainable on various other grounds *viz.*, (a) the Judicial Officer deputed at the Raj Bhavan not having correctly presented the facts before the Hon'ble Chancellor; (b) the person in the Hon'ble Chancellor's Office also not pointing out the background facts and on grounds of (c) promissory estoppel and (d) legitimate expectation.

15. The learned Single Judge also questioned the jurisdiction of the Hon'ble Chancellor in interfering with the appointment of a Deputy Registrar in the University, which according to the judgment impugned, was within the competence of the State Government or at least sanction of the State Government was required.

16. While going through the judgment impugned, we find that the grounds which weighed with



the learned Single Judge was that the (i) advertisement permitted of relaxation of the experience criteria of the applicants; (ii) the presumption of the requirement of experience having been relaxed, especially in view of the fact that the writ petitioner/Kumari Anjana had worked for more than a decade till her appointment was questioned; (iii) the impermissibility of questioning the decision of the Expert Committee at such a belated stage and (iv) predominantly, the efflux of time from the initial appointment till the decision of the Hon'ble Chancellor to terminate the services of the writ petitioner on grounds of initial appointment being bad, as not being in consonance with the conditions enumerated in the advertisement.

17. It further appears that the learned Single Judge took note of the fact that after the confirmation of the service in the University, the writ petitioner had resigned from her substantive post in the Department of Social Welfare, Government of Bihar.

18. The learned Single Judge after having



decided the case, went ahead with certain observations against the functioning of the Hon'ble Chancellor's Office; the conduct of the Officer in the Hon'ble Chancellor's Office and of the Deputationist/Judicial Officer and directed for the judgment to be placed before the Acting Chief Justice for necessary remedial action like sending the Judicial Officer for training.

19. As noted above, the Judicial Officer had approached this Court only for expunction of the uncharitable remarks against him but in the appeal filed by the Principal Secretary to the Governor, judgment on merits also was contested.

20. However, later Mr. Giri, learned Advocate representing the Hon'ble Chancellor's Office submitted that the challenge is now limited only to the undeserved remarks against the Gubernatorial Office, which was neither justified nor necessary for the disposal of the case.

21. Since the arguments on behalf of the



appellants are limited to the rationale of such comments in the judgment, the High Court, which is represented by Mr. Mustafa, learned Advocate, has nothing to say on the merit of the case.

22. We deem it appropriate now to extract Paragraphs 52, 53 and 57 to 61 of the impugned judgment in its entirety, which is as follows:

52. Having perused the record produced by the officials of Raj Bhawan, the court comes to the conclusive finding that the order in the appeal was passed by antedating it just in order to defeat the mandatory directions of the Hon'ble Apex Court. From the record, it appears that the matter was heard on various dates and thereafter on 26.09.2023 the order was reserved. On 03.10.2023, the Written arguments were submitted by the petitioner in the office of the Hon'ble Chancellor but in first week of January, 2024, i.e., 06.01.2024, the petitioner got a copy of the judgment. On this aspect, the queries made by the court but could not be answered by the Officers on Special Duty (Judicial) and Officers on Special Duty (University) of the Governor's Secretariate.



They simply tried to evade giving direct replies by tendering oral apologies. The query of the court was intended to examine the delay caused in passing of the order and communication thereof, however, not even a single satisfactory answer was provided by the Officers on Special Duty (Judicial) and Officers on Special Duty (University) of the Governor's Secretariate except for tendering oral apologies, thus showing the clear case of ante-dating.

53. *The ratio of judgment of Anil Rai (Supra) applies with full force throughout the country on all the institutions discharging judicial and quasi-judicial functions. It appears that just with a view to avoid the mandatory direction passed by the Hon'ble Supreme Court prescribing and limiting the period within which the reserved order has to be delivered, the Officers on Special Duty (Judicial) and Officers on Special Duty (University) keeping the Hon'ble Chancellor in dark got the order of appeal signed by ante-dating it.*

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57. *Before parting, I find it apposite to highlight the grave issues which have been found*



during the course of hearing of instant matter which raises serious concern on the quality of work, the manner in which it is executed; as well as discharging of official responsibilities by officials in the Secretariat of Hon'ble Chancellor.

58. The office of the Hon'ble Chancellor is a statutory position, and the Hon'ble Governor, by virtue of holding the post of Governor, assumes the role of Chancellor of the Universities of Bihar as per the provisions of the Bihar State University Act, 1976 and, to assist the Hon'ble Chancellor in discharging his official, legislative, executive, statutory, and quasi-judicial functions, officers from the administrative and judicial services are deputed to the Governor's Secretariat for a specific term, in accordance with the prevailing rules and notifications of the Government of Bihar. These officers, once posted in the Governor's Secretariat, are duty-bound to present accurate facts, relevant statutory provisions, and existing judicial precedents on various issues. This ensures that the Hon'ble Chancellor can make well-informed decisions and issue orders in compliance with statutory provisions and established judicial pronouncements.

59. However, in the present case, I found



allegations of ante-dating in the order passed by the Hon'ble Chancellor. Therefore, it was deemed appropriate to summon Officer on Special Duty (Judicial), Shri Balendra Shukla, and Officer on Special Duty (University), Shri Mahavir Prasad Sharma, along with the original record of the petitioner's appeal in a sealed cover, as per the order dated 21.03.2024. Upon perusal of the records and upon inquiry from the aforesaid officials, I found that the allegations of ante-dating had merit. Consequently, the officials failed to provide satisfactory answers to the questions posed by the Court and instead tendered their oral apologies.

60. In my considered opinion, the designations of Officer on Special Duty (Judicial) and Officer on Special Duty (University) are positions of high responsibility and integrity, as it is their bounden duty to assist the Hon'ble Chancellor in passing just, fair, and legal orders or directions. However, in the present case, I find that these responsibilities have not only been overlooked by the concerned officials but that they have also deliberately concealed crucial facts, thereby misleading the Hon'ble Chancellor into passing an erroneous order. Consequently, I find it appropriate to hold that the concerned



officials “Officer on Special Duty (Judicial) and Officer on Special Duty (University)” are unfit for their respective positions and should be sent for appropriate training.

61. Accordingly, I direct that this order be placed before the Hon’ble Acting Chief Justice for appropriate action concerning Shri Balendra Shukla, Officer on Special Duty (Judicial), who holds the rank of Additional District and Sessions Judge and falls under the administrative jurisdiction of the Hon’ble Patna High Court. Furthermore, with respect to Shri Mahavir Prasad Sharma, Officer on Special Duty (University), the Court directs the Principal Secretary to the Hon’ble Governor to place the matter before the Hon’ble Chancellor for necessary action.

23. These paragraphs can be clearly understood in the context of the facts emerging out of the case and which have been noted by us in the preceding paragraphs.

24. Before commenting on the necessity or the correctness of such observations of the learned Single Judge, we need to emphasize that times without number, the Supreme Court has clarified that any



adverse comment against a party ought to be eschewed, if such comments are not necessary for the disposal of the case on facts.

25. This proscription is applicable for persons/institutions which are not parties to the proceeding.

26. The only justification for any such comment in the judgment would be its relevance and necessity for adjudication of the case.

27. Even then, the person/Institution commented upon has to be given an opportunity of placing his/their version on record.

28. There is yet another reason which needs be factored in by a Judge deciding a case that any remark made in the process of adjudication must serve a public or legal purpose and it should not merely be a mechanical act of cracking whip on such person or institution.

29. Mr. Shahi and Mr. Giri have, in unison,



submitted that such comments against a Judicial Officer after the issue was concluded and the dispute was resolved could lead to damage to his professional standing and reputation.

30. The role of the Judicial Officer in the Hon'ble Chancellor's office is only incidental and advisory.

31. Any comment on the high office of the Hon'ble Chancellor, especially that the Chancellor was misled or that the order passed by the Hon'ble Chancellor was ante-dated clearly breaches the propriety of observing restraint in the absence of definite proof and such issues not being relevant and central to a just decision in the case.

32. Way back in the year 1964, in the case of ***Dr. Raghbir Sharan vs. The State of Bihar, AIR (1964) SC 1***, an issue arose as to whether the inherent power of an Appellate Court to expunge remarks made therein could be invoked ordinarily as such expunction



might derogate from the finality of the judgment. In that case, a judgment could be emasculated of its force.

33. No doubt, the issue there concerned adverse remarks against a Judicial Officer, but then the principles decided in that case would apply in all cases where adverse remarks are complained of.

34. A Judge exercising powers under Article 226 of the Constitution of India must be free to express his mind in the exposition of the case before him. Such expressions of a Judge in a case would depend on various factors, eg., his inherent reaction to the facts of the case or his, may be, felicity of expression.

35. Judicial function, we reckon, cannot be discharged effectively, if a Judge were to conform to any particular expression which has to have the approval of the higher/Appellate Court, but in the event of a complaint against any unmerited and undeserved comment, the same is required to be addressed by the Appellate Court. In that case, the Appellate Court may



consider expunction of the remarks but not without citing that the observations made are not justified or are wholly wrong or improper, factually or otherwise. Impertinent, en-passant remarks, which in a way castigates or stigmatizes, must be eschewed as part of self-imposed duty of a Judge.

36. And, whenever such power of the Appellate Court is invoked under the circumstances, the Appellate Court must be fully satisfied that the remarks are irrelevant and unjustified. [Also refer to *the State Of Uttar Pradesh vs Mohammad Naim, AIR 1964 SC 703; Niranjan Patnaik vs Sashibhusan Kar & Anr. 1986 (2) SCC 569; in the matter of 'K' A Judicial Officer vs in the matter of 'K' A Judicial Officer, 2001 (3) SCC 54 and Om Prakash Chautala vs Kanwar Bhan & Ors; 2014 (5) SCC 417]*

37. We observe that for holding that the order passed by the Hon'ble Chancellor was ante-dated, more proof than merely a later date of communication of the order to the writ-petitioner, was required.



38. We may clarify that we have not questioned the correctness of the decision of the learned Single Judge but only his conclusion that the order was ante-dated.

39. Though in the body of the judgment impugned, it appears that the Judicial Officer on deputation and another Officer in the Hon'ble Chancellor's Office were called on one occasion but such summoning for clarification would not suffice or make up for an opportunity of hearing for placing their version on record for the learned Single Judge to have concluded that the officers misled the Hon'ble Chancellor and that correctional steps are required to be taken or that the office of the Hon'ble Chancellor had become dysfunctional.

40. We reiterate that such off-the-cuff observations were not required as it was not necessary to be dealt with by the learned Single Judge for deciding the correctness of the decision of the Hon'ble Chancellor



in holding that the writ petitioner did not meet the experience requirement for being appointed as Deputy Registrar of the University.

41. Once we hold that such observations were absolutely uncalled for and that also without confronting the Judicial Officer or the Officer in the Hon'ble Chancellor's Office with such concluded finding of the Court, such observations would fall in the category of unmerited, undeserved and uncharitable remarks, which ought not to be retained in the judgment in larger public interest.

42. There is a co-related duty imposed upon a Court to show mutual respect to the other Institution as judicial restraint and discipline is imperative for an orderly administration of justice.

43. The majesty of the Court would be enhanced only when even the Superior Courts do not allow themselves, even momentarily, the latitude of ignoring judicial precaution and propriety.



44. In this context, we deem it apt to refer to a few instructive paragraphs from the judgment of **Om Prakash Chautala** (supra) which serves as a vade-mecum for the Judges while discharging their judicial functions, which are as follows:

19. It needs no special emphasis to state that a Judge is not to be guided by any kind of notion. The decision making process expects a Judge or an adjudicator to apply restraint, ostracise perceptual subjectivity, make one's emotions subservient to one's reasoning and think dispassionately. He is expected to be guided by the established norms of judicial process and decorum. A judgment may have rhetorics but the said rhetoric has to be dressed with reason and must be in accord with the legal principles. Otherwise a mere rhetoric, especially in a judgment, may likely to cause prejudice to a person and courts are not expected to give any kind of prejudicial remarks against a person, especially so, when he is not a party before it. In that context, the rhetoric becomes sans reason, and without root. It is likely to blinder the thinking process. A Judge is required to remember that humility and respect for



temperance and chastity of thought are at the bedrock of apposite expression. In this regard, we may profitably refer to a passage from Frankfurter, Felix, in Clark, Tom C.,[16]:

“For the highest exercise of judicial duty is to subordinate one’s personal pulls and one’s private views to the law of which we are all guardians – those impersonal convictions that make a society a civilized community, and not the victims of personal rule,”

20. The said learned Judge had said: -

“What becomes decisive to a Justice’s functioning on the Court in the large area within which his individuality moves is his general attitude towards law, the habits of mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it.[17]”

21. *Thus, a Judge should abandon his passion. He must constantly remind himself that he has a singular master “duty to truth” and such truth is to be arrived at within the legal parameters. No heroism, no rehtorics.*

45. In the afore-noted paragraphs, what has been pointed out overtly is that reputation is one of the



facets of Article 21 of the Constitution of India, which cannot be taken away lightly in the garb of deciding a case.

46. On these grounds, we find the uncharitable remarks in paragraphs 52, 53 and 57 to 61 to be unworthy of being retained in the judgment and we expunge the same.

47. We make it doubly clear that we have not commented on the rationale and the correctness of the judgment in the case of the writ petitioner, which has not been challenged by any one of the parties here, but only on the observations against the Hon'ble Chancellor's Office; the Officer in the Hon'ble Chancellor's Office and the Judicial Officer on deputation, as being wholly unnecessary for the disposal of this case.

48. We, therefore, hold that nothing in the judgment in such paragraphs shall be considered as a finding against the Institution and the Officers and that



such comments would also not percolate in the ACR of the Officer in the Hon'ble Chancellor's office as also of the Judicial Officer.

49. Both the appeals are, thus, disposed off accordingly.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

krishna/manoj-

AFR/NAFR	AFR
CAV DATE	NA
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