

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3952 of 2025

Md. Naushad Alam, Son of Md. Taslim, Resident of 505, Grand Chandra Apartment, Fraser Road, P.O.- G.P.O., P.S.- Gandhi Maidan, District- Patna, Pin Code- 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Maulana Mazharul Haque Arabic and Persian University, through its Registrar.
3. Vice Chancellor, Maulana Mazharul Haque Arabic and Persian University.
4. Registrar, Maulana Mazharul Haque Arabic and Persian University.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhinav Shrivastava, Sr. Advocate Mr. Akshat Kumar, Advocate Mr. Raushan, Advocate
For the State	:	Mr. Government Pleader (14)
For the University	:	Mr. Rashid Izhar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 03-11-2025

Heard the parties.

2. Challenge in the present writ petition is made to the order as contained in letter dated 08.02.2025, issued by the Registrar of Maulana Mazharul Haque Arabic & Persian University (in short 'the University') by which the petitioner has been placed under suspension; by making a declaration that the



impugned order of suspension is completely untenable in the eyes of law, the same being in blatant disregard to the provisions of the Bihar State Universities Act, 1976 and the provisions contained under the Service Statute (in short 'the Statute'), as approved by the Chancellor on 20.09.1980; with a further direction to the concerned respondent authorities under the University to reinstate the petitioner along with all consequential benefits after revoking his suspension in the capacity of Head of Department of English of the University.

3. The petitioner having faced due process of recruitment/selection conducted by the Bihar Public Service Commission (in short 'Commission') in pursuant to Advertisement No. 45/2024 was appointed against the post of Assistant Professor in English in the services of the University, under notification dated 03.05.2017. following the appointment, the petitioner submitted his joining in the University on 03.05.2017. Subsequently on the basis of the recommendation made by the Post Creation Absorption and Confirmation Committee of the University and after getting due approval by the Syndicate of the University, the services of the petitioner along with one another person were duly confirmed under notification dated 28.01.2021. The petitioner was further



granted promotion as Assistant Professor (Senior Scale/Academic Level-11) with effect from 03.05.2021 in terms with the provisions contained under the Statutes regarding Career Advancement Scheme vide notification dated 16.03.2024.

4. Mr. Abhinav Shrivastava, learned Senior Advocate for the petitioner narrating the aforesaid facts further contended that the petitioner had been discharging his duty to the utmost satisfaction of the authorities concerned, which facts also fortified for the simple reason that taking note of the efficiency and sincerity of the petitioner, from time to time, he had been assigned several responsibilities in addition to the duties discharged by him in the capacity of Assistant Professor in English. In the meantime, a protest was made by the number of teachers as well as non-teaching employees against a decision taken by the authorities of the University with respect to renting out two floors of the main building of the academic block situated at Patna. The petitioner had also signed on the protest representation, which led to issuance of Office Order dated 18.12.2024, issued by the authorities of the University stating therein that the participation of the petitioner in the said protest was in violation of the Basic Good Conduct, Rules and



Regulations of the Syndicate, hence the petitioner was removed from the membership of the Syndicate of the University by the aforementioned office order, the copy of the said order is marked as Annexure-P/7. The petitioner submitted his representation against the order aforementioned stating in detail, the ground for his participation in the aforesaid matter, which in no manner showed any act of misbehaviour. The explanation of the petitioner did not satisfy the authority and subsequently they came out with another notification dated 16.01.2025 by which the petitioner, who was continuing in the capacity of Head of the Department of English of the University since 08.07.2024 was removed from the said post and another person was appointed as the Head of the Department of English.

5. Mr. Shrivastava, learned Senior Advocate, referring to the aforesaid notification submitted that the same is in complete disregard to the terms of the Statutes regarding Headship by Rotation, which clearly mandates that a person working in the services of different Universities within the State of Bihar is entitled to continue for a tenure of three years, as the head of a department of a University. The action of the respondent authorities is said to be actuated with *malafide* and ill-will and only with the intent to subject the petitioner to undue



harassment and hardship, which fact is also evident that in the meantime the petitioner was also removed from the other Committees etc. of which he was the member. The University further went to issue a letter dated 22.01.2025 under the signature of the Registrar of the University, by which it is stated that during the examination of the personal file of the petitioner, no domicile/residential certificate was found available and, as such, the petitioner was directed to submit domicile certificate with necessary valid documentary proof within 48 hours; nonetheless the services of the petitioner had already been confirmed after due verification of the documents.

6. On receipt of the aforesaid letter dated 22.01.2025, the petitioner in furtherance of the direction contained therein, submitted relevant explanation and information, but all of a sudden the respondent Registrar of the University issued letter dated 08.02.2025 by which the petitioner was conveyed that his response to one letter bearing no. F-04/04, RE-950/2024 and its alleged leakage to the Media by the petitioner indicated gross misconduct, violation of professional ethics of code, directions issued from the Governor's Secretariat, Bihar, Patna. It was also stated that few facts had come to light regarding the Non-creamy Layer



Certificate submitted by the petitioner, besides the alleged misbehaviour with the senior officers. In the aforementioned premise, the petitioner was put under suspension in terms of Sub-Section-II of Section 10 of the Statutes. Applicable to the University. The petitioner has further been directed to the Principal of National B.Ed. College in order to facilitate smooth conduct of enquiry.

7. Assailing the impugned order, learned Senior Advocate, Mr. Shrivastava, vehemently submitted that the order of suspension came to be passed without adhering to the mandatory requirement as enumerated under Article 10(2) of the Service Statutes, besides the same is wholly illegal and arbitrary and thus liable to be quashed. Placing the petitioner under suspension and further directed to report to Principal of National B.Ed. College, which is not even part of the University and is rather a privately managed affiliated College, the action on the part of the respondent authorities is wholly illegal and arbitrary. The action of the respondent authorities is said to be per se malafide is writ large in view of the materials available on record, which clearly demonstrate that because of the protest being made by the petitioner, he was subjected to undue harassment for his no fault.



8. During the pendency of the writ petition, the petitioner also discovered that without making any communication or information having been rendered to him, the concerned respondent authorities have taken steps towards recovery from the salary of the petitioner and on account of correspondences to the authorities of the State, the Director, Higher Education, Bihar, Patna had forced to issue letter no. 2336 dated 03.06.2025 directing the petitioner to submit his explanation in respect of alleged fraudulent act on his part insofar the submission of forged residential certificate was concerned. The petitioner was thereby compelled to file Interlocutory application, bearing I.A. No. 1 of 2025 seeking a direction upon the respondent authorities of the State and the University to refrain from taking any precipitative action against him.

9. Mr. Rashid Izhar, learned Advocate for the University, in pursuant to the order of this Court, filed counter affidavit, duly sworn by the Registrar of the University. It is vehemently contended that the petitioner after being entrusted with the responsibilities acted in a manner prejudicial to the academic and administrative discipline of the University. Few complaints were also made and brought to the notice of the



authorities of the University against the petitioner from English Department students, but no appropriate action was undertaken. Later on, it came to light that the petitioner at his end had released the internal proceedings of the University and the University Syndicate of which he was signatory as a member, to the outsiders and specially to Electronic and Print Media, besides he was found involved in instigating the employees of the University. The petitioner also wrote a protest letter along with other employees to the learned Chancellor alleging ill-motive with regard to the decision of the Syndicate and internal administrative matter of the University in complete defiance of Section 9(7)(ii) of the Bihar State Universities Act, 1976 and Sub-Section 7 of Section 10 of Patna Universities Act, 1977, which clearly cautioned the employees not to directly correspond with the office of the learned Chancellor without the clear approval and permission of the Vice-chancellor of the University.

10. The complaint was also received with regard to the misbehaviour and indiscipline conduct of the petitioner with the Financial Advisor of the University; besides the petitioner had obtained his services as Assistant Professor on the basis of a doubtful Non-creamy Layer Certificate, based upon a forged



Domicile Certificate. The matter related to forged Domicile Certificate had been referred to the Government for further proceeding and in the said matter the Government had also issued show-cause notice dated 02.06.2025 under Memo No. 2336. Referring to the aforesaid facts, Mr. Rashid Izhar, learned Advocate for the University submitted that in the aforesaid premise, the impugned order dated 08.02.2025 came to be passed by placing the petitioner under suspension in exercise of powers conferred under Section 10(2) of the Statute to get an inquiry done for gross-misconduct and dereliction of duty. In response to the alleged recovery from surplus payment of salary, it is further submitted that the same has been initiated in the light of the provision of Bihar Service Code, especially Rule 99(6) thereof.

11. This Court has bestowed the careful consideration to the submissions advanced by the learned Advocate for the respective parties and also perused the materials available on record. To examine the legality of the impugned order of suspension dated 08.02.2025, it would be pertinent to refer the relevant provisions contained under Article 10(2) of the Service Statutes, in exercise of which the impugned order came to be passed, which is quoted hereinbelow:



10(2): Where a University servant is being proceeded against departmentally on charges of gross-misconduct, bribery corruption or dereliction of duty, the question of suspension should be considered with reference to the prima facie evidence available against him. If there are good reasons to believe, on the basis of the material available at the time of the initiation of the proceedings, that the University servant has been guilty of gross-misconduct or dereliction of duty or bribery or corruption which, if proved, would lead to his dismissal or removal, he should be placed under suspension. In cases in which such prima facie evidence is lacking at the start, the question of suspension of the University servant may be kept pending till the findings of the enquiring officer are available. In such cases, he should be required to proceed on such leave as may be due to him, and, if there is no leave to his credit, on extraordinary leave. On the conclusion of the enquiry, if it is found that the University servant is guilty of gross-misconduct or dereliction of duty or of bribery or corruption, which would entail his dismissal or removal from service, he



should be placed under suspension.”

12. Bare reading of the relevant provisions, as noted herienabove, it is manifest that when a University servant is proceeded against on the charges of misconduct, bribery, corruption or dereliction of duty, the question of suspension should be considered with reference to the prima facie evidence available against him and if there are good reasons to believe, on the basis of the material available at the time of the initiation of the proceedings, that the University servant has been guilty of gross-misconduct or dereliction of duty or bribery or corruption which, if proved, would lead to his dismissal or removal, he should be placed under suspension.

13. Now coming to the facts of this case. Before participation of the petitioner in a protest led by various teaching and non-teaching employees with respect to renting out two floors of the main building of the academic block situated at Patna, there had never been any imputation/charges, which led to issuance of any show-cause notice. Conversely, assigning several responsibilities, in addition to the duties discharged by him in the capacity of Assistant Professor in English, as has been disclosed in various paragraphs and the related orders appended to Annexure- 5 Series, clearly demonstrate that cause of resentment has arisen amongst the authorities of the



University as and when the petitioner has made a protest along with others. The show-cause notice regarding participation of the petitioner in protest and putting his signature on the representation clearly explained by the petitioner in his reply dated 19.12.2024 (Annexure-P/8), which has also been perused by this Court and found to be adequate, which must be looked into by the respondent University before proceeding against the petitioner, however, the same has not been done.

14. Undoubtedly, an opportunity to peaceful protest against the decision of the Government is an essential part of democracy, the right to dissent any lawful manner must be treated as a part to lead dignified and meaningful life guaranteed by Article 21 of the Constitution, however, it is cautioned that the protest or dissent must be within four corners of the modes permissible in a democratic set up. If a University employees finds an order of the authorities of the institution is prejudicial to the interest of the institution, can he be precluded to agitate the issue before the higher authorities?

15. In the opinion of this Court, right to protest and dissent in a legitimate and lawful manner as an integral part of the rights guaranteed under Article 19(A) of the Constitution of India, which cannot be curtailed in such a casual manner. If a



wrong is likely to be committed at the hands of the higher authorities of the institution, which is *per se* prejudicial to the interest of the institution, such fact should not be brought to the knowledge of the next higher authorities, even if it finds substance to the majority of the fraction of the employees, does not persuade this Court.

16. True it is that any information regarding irregularity or wrong committed against the employee or found prevalent in the functioning of the institution must be brought to the controlling authorities of the institution and in case the same is not to be looked into or no decision is taken, the employees/affected person has every right to approach before the next higher authorities and/or appropriate forum/court, hence the submission of the respondent University that sending representation or any correspondence to the Governor Secretariate constitute a misconduct does not find substantiated.

17. Coming to the impugned order, the copy of which is placed on record as Annexure-P/12, it manifestly appears that the petitioner is found indulged in submitting fraudulent Non-creamy Layer Certificate in getting the appointment as an Assistant Professor, besides the allegation of having misbehaved with the Senior Officer and thus an enquiry



committee was constituted. Since the enquiry was directed to be led by a three Men Committee on the alleged charges, in the opinion of this Court there has been yet lacking of *prima facie* evidence against the petitioner and the good reasons to believe for initiation of the proceeding that the petitioner has been guilty of grave misconduct or dereliction of duty, which if proved would lead to his dismissal or removal. The imputation/charges of furnishing fraudulent Domicile Certificate as well as Non-creamy Layer Certificate and misbehaviour with the senior colleague required proper explanation of the petitioner and meaningful deliberation, which would only allow the authority to come to a conclusion that there are good reasons to believe on the basis of the materials warranting a departmental proceeding.

18. It would be pertinent to observe that in catena of decisions, the Hon'ble Supreme Court as well as this Court have crystallized the component of reason to believe that must be supported by sufficient cause and substantial grounds for the belief; it requires a foundational facts and evidence, not mere suspicion or imagination.

19. The preliminary enquiry is for the purposes of collection of facts in regard to conduct and work of a Government servant in order to come to a conclusion as to



whether a departmental proceeding can be initiated or not, the enquiry may be held ex parte, it is merely for the Government and the institution at that stage the delinquent officer has no right to be heard, but in a case where the charges are of a nature, which requires explanation of the petitioner and deliberation thereof to come to a conclusion regarding availability of prima facie evidence and to reach the conclusion that there are good reasons to believe for initiation of departmental proceeding, putting the petitioner under suspension does not warrant merit consideration.

20. The cancellation of all the previous order whereby the different responsibilities have been assigned to the petitioner, including the headship, based upon the terms of the statute regarding headship by rotation without any cogent reason besides the reduction of salary of the petitioner without the cause being shown and a show-cause notice served upon the petitioner clearly smacks *mala fide* and ill-will on the part of the concerned respondent authorities of the University and thus such action cannot be countenanced.

21. This Court also noticed that till date neither the charges have been framed nor the enquiry report has been submitted by the duly constituted three member committee,



hence without making any observation on the matter relating to the alleged imputation of submission of the suspicious Domicile Certificate as well as Non-creamy Layer Certificate by the petitioner at the time of appointment, which led to issuance of the show-cause notice and explanation submitted by the petitioner, confined the issue only with regard to the legality of the impugned order of suspension and on being satisfied and found substance in the writ petition, set aside the impugned order dated 08.02.2025, as contained in Annexure-P/12 to the writ petition.

22. The respondent authorities are also directed to consider the claim of the petitioner for his reinstatement for the post of Head of the Department in English of the University in terms with the Statute regarding Headship by Rotation forthwith. This Court also deprecates the action of the respondent University by making any recovery and/or reducing the pay scale of the petitioner unilaterally without any order passed in this behalf.

23. The University is further directed not to make any coercive steps for recovery from the salary of the petitioner without following the established procedure and passing the appropriate order.



24. The writ petition stands allowed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2025
Transmission Date	NA

