

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3159 of 2015

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1. Jay Prakash Singh son of Sri Jagadish Singh, resident of Village + P.O. - Sukki, P.S. - Khajauli , District- Madhubani.
 2. Sunayana Kumari wife of Sri Binay Kumar Jha , resident of Village - Salha, P.O.+ P.S. - Laheriasarai , District- Darbhanga, presently resident at Quarter No. 7 Nargauna Palace compound , LNMU Campus , Darbhanga.
 3. Kritika Jha wife of Naresh Kumar Jha address- C/o Manmohan Jha , Soti Lane , near power house , P.O.- Lalbagh , Darbhanga.
 4. Uma Devi wife of Late Ravi Sharma resident of Village - Yakud Bela , P.O. -n Kabirchak , P.S. bahadurpur , District - Darbhanga
 5. Rahul Lochan son of Sri Pashupati Nath Tiwari resident of Village - Murtuzapur , P.O. - Tarauni , District - Darbhanga
 6. Sufal Kant Jha son of Late Dukhan Jha , resident of Dhankhor , P.O. - Parsa, District - Madhubani
 7. Jeevan Kumar Das son of Late Jagdish Das , resident of Mohalla - Donar, Ganga Sagar , P.O. - Lalbagh , , District- Darbhanga.
 8. Kundan Kumar son of Sri Satendra Singh Address - Indira Colony , Alall Patti , P.O. - Darbhanga Medical College , Darbhanga.
 9. Ajay Yadav son of Sri Nirdhan Yadav , resident of Village - Hare Rampur, P.O. Ejaw , P.S. - Khodawanpur , District- Begusarai.
 10. Baidyanath Kumar Ray son of Sri Madan Ray , resident of Mohalla - Rambagh , P.O. & District- Darbhanga.
 11. Bablu Kumar Paswan , son of Sri Ganesh Paswan , resident of Mohalla - Nimpokhar, Kadirabad Chowk, Ward No. 4 Darbhanga.
 12. Mohan Kumar Mishra son of Sri Parmanand Mishra , resident of Village +P.O.- Kanahai , P.S.- Ghanshyampur , District- Darbhanga.
 13. Rajesh Paswan , son of Sri Raju Paswan resident of Mohalla- Ward No. 3, Bela Shankar , P.O. - Lalbagh , P.S. - LNMU, District- Darbhanga.
 14. Amod Kumar Singh son of Sri Ram Sakhan Prasad Singh resident of Village - Mortar , P.O.- Malipur , P.S. - Garhpura, District- Begusarai.
 15. Lalita Kumari wife of Sri Sanjay Kumar resident of Mohalla - Raghepura , P.O. - Lahariasarai, District- Darbhanga.
 16. Pawan Kumar Singh son of Sri Navin Chandra Singh, Address - Jora Dutalla , P.O. - Madhepur, District- Deoghar (Jharkhand).
 17. Sangita Jha wife of Shashi Bhushan Choudhary, resident of Mohalla - Station Road , Mirzapur , Hyundai Wali, Gali , Darbhanga.
 18. Randhir Kumar Thakur son of Sri Dinesh Thakur resident of Mohalla - Sundarpur, Chattipokhar, P.O. - Lalbagh, District- Darbhanga.
 19. Shaswat Kishlay , son of Sri Sudhir Srivastava , resident of 105, Neelgiri Bhawan , West Boring Canal Road, Patna.
 20. Ashok Kumar Thakur son of Sri Mishrilal Thakur resident of Village - Singioun , P.O. - Ram Patti , P.S. - Raj Nagar, District- Madhubani
 21. Asha Devi daughter of Sri Ram Briksha Ram , resident of Mohalla - Katahalbari , LNMU Campus, Darbhanga.
 22. Jyoti Kumari daughter of Sri Baldeo Jha resident of Road No.3 , Laxmi Sagar, P.O. - Laxmi Sagar , District- Darbhanga.
 23. Bipin Kumar Singh son of Sri Raj Kishore Singh resident of Village - Kila Ghat Tarauni , P.O. - Subhankarpur, District- Darbhanga.
 24. Lalan Ray son of Sri Laxmi Ray resident of Village - Subhankarpur , Satihara

Tola , P.O.- Lalbagh , District- Darbhanga .

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. The Principal Secretary, Department of Science and Technology, Government of Bihar, Patna.
4. The Director, Department of Science and Technology, Government of Bihar, Patna.
5. The Lalit Narayan Mithila University, Darbhanga, through its Registrar.
6. The Vice Chancellor, Lalit Narayan Mithila University, Darbhanga.
7. The Registrar, Lalit Narayan Mithila University, Darbhanga.
8. The Director, Women's Institute of Technology, Kameshwar Nagar, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashutosh Ranjan Pandey
For the State : Mr. Shiv Kumar, AC to GA7
For the University : Mr. Ajay Behari Sinha
Mr. Chandra Mohan Singh
For Respondent No.8: Mr. Harendra Kumar
Mr. Sanjeev Kumar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 08-05-2015

The Court can only scrutinize the decision taken within the realm of public domain for the purposes of satisfying itself that the decision taken by the respondent authorities does not suffer from any serious vice of violation primarily of Article 14 of the Constitution of India.

2. Selections under challenge are selections made on contract basis after so-called due advertisement in what is known as Women's Institute of Technology, which is a self financed institution under L N Mithila University, Darbhanga. It does have an

independent status and identity. Court is informed that it does not have the requisite funding and finance which other institutions or University receive from the State of Bihar. They have limitation of resources available so do have problem in running the institution smoothly.

3. When the institute was set up in 2005, as a stop-gap arrangement, which is reflected from Annexure-1 series, certain persons came to be appointed on contract basis on a fixed remuneration for a period of six months. This arrangement continued and the petitioners before this Court were the beneficiaries of that arrangement.

4. Specific averments have been made with regard to the petitioners and their proximity with the power that be then, which is said to be one of the primary reasons for their selection. The Court is not required to go into that controversy as it may not have relevance but will surely have reflection on the way the above benefit or the status the petitioners acquired. They are the most sufferers when new selection by due process of advertisement has been embarked upon and the exercise completed.

5. Writ application has been filed challenging the decision of the Women's Institute of Technology to appoint people on contract basis instead of on regular basis. They also want that such selection

and the advertisement should be set aside and the petitioners be allowed to continue in the capacity they were working unhindered and undisturbed.

6. Many a things have been alleged in the manner in which the process of selection again on contract was initiated. These allegations or insinuations in the opinion of the Court are only to create prejudice and take advantage thereof instead of something more tangible. The Court will not get distracted from the basic issue for adjudication.

7. Stand is taken by the University that the reason for the advertisement and re-selection of candidates on contract has to do with the manner in which previous engagement came to be made. These selections and appointments were made without following any procedure much-less the requirements of reservation and roster clearance, so the need for fresh selection.

8. In the opinion of the Court, the procedure may not have been followed because such selection, which is evident from Anneuxre-1 series, was stop-gap arrangement for six months but naturally this arrangement continued a little longer than originally meant and petitioners had become more sanguine and comfortable on the post.

9. The Registrar of the University was summoned with the



original records to test the veracity of some of the allegations made in the writ application. He has dutifully produced the same and is available for perusal of the Court. He further submits that the background under which new advertisement came to be made is that the State Government and other agencies including at the level of the Chancellor objections were taken with regard to the manner in which previous selections were made without following the reservation rules of the State as well as the roster clearance thereto. It was with the object of overcoming such objections that the new process of selection on the basis of contract was taken because University has no financial position to make permanent appointments and also share the burden related to such permanent appointments including the issues of post retirement dues and pensions.

10. Counsel for the University further informs the Court that these petitioners participated in the process of selection except one of the candidates and after they failed to beget any opening they have spun out a case of discrimination, arbitrariness and irrationality including the allegation of mala fide in the manner in which such selection has been made.

11. The Court understands why such a hype has been created because naturally the advantage which the petitioners had acquired of employment without following any procedure will come

to end if fresh process of selection is completed.

12. Since most of these petitioners have participated in the process of selection, they cannot be allowed to raise objections thereafter by urging things in the manner in which the process was initiated and the exercise was completed.

13. The Court has no hesitation in recording that the hue and cry is more related to the failure of these petitioners to make it to the selection list rather than the actual state of affairs.

14. In addition to that, looking at the nature and the process of selection earlier, petitioners do not have the fundamental right for the post they are holding. To make it worse they participated and have failed.

15. Writ application is dismissed.

16. The order of stay now stands vacated. Let the process be completed.

17. The original records are returned back to the Registrar of the University for safe custody.

(Ajay Kumar Tripathi, J)

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